

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

## OPEN BOOK ON EQUAL ACCESS TO JUSTICE ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1033) to amend titles 5 and 28, United States Code, to require the maintenance of databases on, awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1033

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Open Book on Equal Access to Justice Act".

### SEC. 2. MODIFICATION OF EQUAL ACCESS TO JUSTICE PROVISIONS.

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

(1) in subsection (c)(1), by striking "United States Code";

(2) by redesignating subsection (f) as subsection (h);

(3) by striking subsection (e); and

(4) by inserting after subsection (d) the following:

"(e) The Chairman of the Administrative Conference of the United States shall create and maintain online a searchable database containing the following information with respect to each award of fees and other expenses under this section:

"(1) The case name and number of the adversary adjudication, if available.

"(2) The name of the agency involved in the adversary adjudication.

"(3) A description of the claims in the adversary adjudication.

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

"(5) The amount of the award.

"(6) The basis for the finding that the position of the agency concerned was not substantially justified.

"(f) The online searchable database described in subsection (e) may not reveal any information the disclosure of which is prohibited by law or court order.

"(g) The head of each agency shall provide to the Chairman of the Administrative Conference of the United States, no later than 60 days following the Chairman's request, all information requested by the Chairman to comply with the requirements of subsections (e) and (f)."

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

"(5) The Chairman of the Administrative Conference shall create and maintain online a searchable database containing the following information with respect to each award of fees and other expenses under this section:

"(A) The case name and number.

"(B) The name of the agency involved in the case.

"(C) The name of each party to whom the award was made, as such party is identified

in the order or other court document making the award.

"(D) A description of the claims in the case.

"(E) The amount of the award.

"(F) The basis for the finding that the position of the agency concerned was not substantially justified.

"(6) The online searchable database described in paragraph (5) may not reveal any information the disclosure of which is prohibited by law or court order.

"(7) The head of each agency (including the Attorney General of the United States) shall provide to the Chairman of the Administrative Conference of the United States, no later than 60 days following the Chairman's request, all information requested by the Chairman to comply with the requirements of paragraphs (5) and (6)."

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

(1) in subsection (d)(3), by striking "United States Code,"; and

(2) in subsection (e)—

(A) by striking "of section 2412 of title 28, United States Code," and inserting "of this section"; and

(B) by striking "of such title" and inserting "of this title".

(d) EFFECTIVE DATE.—

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

(2) ONLINE DATABASES.—The online databases required by section 504(e) of title 5, United States Code, and section 2412(d)(5) of title 28, United States Code, shall be established as soon as practicable after the date of the enactment of this Act, but in no case later than one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Maryland (Mr. RASKIN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

### GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1033, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

I begin by thanking Representative DOUG COLLINS of Georgia and the Constitution and Civil Justice Subcommittee Ranking Member STEVE COHEN of Tennessee for introducing this important government transparency legislation.

Every year, pursuant to the Equal Access to Justice Act, the Federal Government, through settlement or court order, pays millions of dollars in legal fees and costs to parties to lawsuits and administrative adjudications that involve the Federal Government.

However, despite the large amount of taxpayer dollars paid out each year,

the Federal Government no longer comprehensively keeps track of the amount of fees and other expenses awarded pursuant to the Equal Access to Justice Act, nor does the government compile and report on why these fees and expenses were paid and to whom these costs were awarded.

This is because, in 1995, Congress repealed the Department of Justice's reporting requirements and defunded the Administrative Conference of the United States, the agency charged with reporting this basic information.

The Administrative Conference was established in 2010, but the requirements to report on fee and cost payments have not been reenacted. Accordingly, there has been no official governmentwide accounting of this information since fiscal year 1994, over 20 years ago.

This lack of transparency is troubling, given that the Equal Access to Justice Act is considered by many to be the most important Federal fee-shifting statute. Fundamentally, the act recognizes that there is an enormous disparity of resources between the Federal Government and individuals and small businesses who seek to challenge Federal actions.

□ 1715

Congress enacted the Equal Access to Justice Act to provide individuals, small businesses, and small nonprofit groups with financial incentives to challenge the Federal Government or defend themselves from lawsuits brought by the Federal Government. As the Supreme Court has noted, the act was adopted with the specific purpose of eliminating for the average person the financial disincentive to challenge unreasonable governmental actions.

But how can we know if the act is working well toward this end if we have no data on awards? Without the data this bill requires the Administrative Conference to compile and report, we have nothing more than anecdotal evidence as to whether the act is providing some measure of relief to the financial disincentive to seeking judicial and administrative redress against the Federal Government.

The legislation we are considering today will end this lack of transparency and restore the reporting requirements that were repealed in 1995. I want to, once again, thank Representatives COLLINS and COHEN for introducing this bill, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. RASKIN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1033, the Open Book on Equal Access to Justice Act.

Mr. Speaker, I want to begin by echoing the praise that the chairman offered to Mr. COLLINS and Mr. COHEN for their leadership on this important legislation which I support for several reasons.

To begin with, it strengthens the Equal Access to Justice Act, a crucial law that has helped senior citizens, veterans, the disabled, and not-for-profit groups vindicate their rights against unreasonable or arbitrary governmental action.

Now, as the chairman stated, under the so-called American rule, parties to adjudicative matters typically pay their own litigation costs, subject to certain statutory exceptions; and one of these exceptions is the Equal Access to Justice Act, which allows a party to be reimbursed for litigation costs when he or she is victorious against the Federal Government under specified conditions.

But if the U.S. can show that its position was substantially justified, or that special circumstances would make an award unjust, then the prevailing party is not entitled to be reimbursed for his or her litigation costs.

In addition, only certain parties are eligible to be reimbursed for their litigation costs under the act, based on their net worth or tax exempt status, among other factors that are built in to the statute.

Whether these restrictions still make sense is an open question, as Congress simply does not have the adequate information to assess the continuing effectiveness of the act. This is because there has been no comprehensive Federal report on the total amount of fees awarded under the act since 1995, and, as a result, all we have is conjecture and extrapolation.

Fortunately, H.R. 1033 addresses this problem by requiring annual reports on the amount of fees paid under the act to prevailing litigants against the government. As a result of this legislation, Congress will know now, on an annual basis, the agencies required to reimburse parties for their litigation costs; the claims that first gave rise to the litigation; and the amount of awards made under the act, as well as the basis for them.

With this information, Congress will be in a much better position to assess the ongoing implementation of the act and the performance of the agencies as litigants.

Another reason why I support this legislation is that it respects the privacy interests of the parties who are reimbursed for their litigation costs pursuant to the act. Unfortunately, prior versions of this legislation were unnecessarily intrusive.

Organizations, like the National Organization of Social Security Claimants' Representatives and the Paralyzed Veterans of America, expressed their serious concerns that prior versions of the bill might "infringe the privacy of vulnerable people who have applied for Social Security and veterans' benefits." These are serious concerns, especially given the fact that the bill requires the information collected to be made available to the public and transparent through posting on the internet.

As currently drafted, however, H.R. 1033 strikes the proper balance between encouraging transparency and respecting the legitimate privacy interests of parties that have been raised as an issue in the past. The bill specifically provides that the annual reports required to be made publicly available may not reveal any information the disclosure of which is prohibited by law or court order.

Finally, I support H.R. 1033 because it recognizes the important role that the Administrative Conference of the United States has historically played in helping Congress identify inefficiencies among the Federal agencies and ways to save taxpayer dollars through the proper economies. I am particularly pleased that the current version of this legislation reflects various thoughtful suggestions shared by the Administrative Conference with our staffs.

Given the excellent work and scholarly analysis that have been the hallmarks of the Administrative Conference of the United States, I expect its report and its attendant findings will be an invaluable aid to Congress.

As the Judiciary Committee is the authorizing committee for the Conference, I encourage our friends on the Appropriations Committee to ensure that the Conference has adequate funding to implement this very important legislation.

Like the Administrative Conference, H.R. 1033 requires only a modest investment that will result in a very valuable return for all Americans. Accordingly, I urge my colleagues to support this measure, and I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. COLLINS), the chief sponsor of the bill, and a member of the Judiciary Committee.

Mr. COLLINS of Georgia. Mr. Speaker, I thank the chairman for yielding and for his tireless work over the last couple of Congresses in bringing this to the floor.

Mr. Speaker, I rise today in support of H.R. 1033, the Open Book on Equal Access to Justice Act. I introduced this legislation with a bipartisan group of cosponsors to provide additional transparency and oversight of taxpayer dollars awarded through the Equal Access to Justice Act.

I want to thank all of the original cosponsors of this legislation for their support, but, in particular, I would like to thank my friend from Tennessee, STEVE COHEN, a member of the Judiciary Committee. These are the kind of areas where we find agreement, and transparency is one of those. I want to thank him for his support and also the gentleman from Maryland as well, for his support of this.

Additionally, there is one former Member I would like to thank, Mr. Speaker, Congresswoman Cynthia Lummis, for her leadership on an earlier version of this legislation. She is

looking forward to bringing this to fruition.

Current and past bipartisan support for this legislation demonstrates a consensus that we need to address this issue, and that Americans deserve to know how taxpayer funds are being spent. Almost identical legislation passed both the Judiciary Committee and the full House on a voice vote in the 114th Congress.

This bill reinstates the needed transparency and accountability measures to ensure the Equal Access to Justice Act is helping individuals, retirees, veterans, and small businesses as originally intended.

Congress originally passed the Equal Access to Justice Act in 1980, to remove the barrier to justice for those with limited access to resources it takes to sue the Federal Government and recover attorneys' fees and costs that go along with those suits. The law was written to provide citizens with the opportunity to challenge or defend against unreasonable government actions where they otherwise might be deterred by large legal expenses.

To be eligible for payment under the EAJA, an individual's net worth must be less than \$2 million, or a business or an organization must have a net worth of less than \$7 million, although the cap does not apply to certain tax-exempt organizations.

The Equal Access to Justice Act was intended to address the David and Goliath scenario, where wronged citizens have to go to court and face the Federal Government's vast financial and legal resources. It is past time that we ensure this law is working for the citizens in need and for taxpayers alike.

Payments of the attorneys' fees come from the budget of the agency whose actions give rise to the underlying claim. While the original Equal Access to Justice Act legislation included a requirement to track payments and report to Congress annually, Congress and the agencies halted tracking and reporting of these payments made through the Equal Access to Justice Act in 1995.

Since then, there has been no comprehensive Federal report, and we are sorely in need of the oversight responsibilities which H.R. 1033 takes the steps to address.

A GAO report indicated that, without any direction to track payments, most agencies simply don't do it, and Congress and taxpayers are unable to exercise oversight over these funds. In fact, we have only anecdotal evidence about how much we are spending on attorneys' fees, the agencies paying out these fees, and what types of claims are being recovered. This is simple, commonsense transparency that we are bringing forward today.

H.R. 1033 requires the Administrative Conference to develop and implement an online searchable database to facilitate public and congressional oversight over the Equal Access to Justice Act payments in both agency adjudications

and court proceedings. Agencies would be required to provide information requested by the ACUS for the development of the database, but, importantly, the ACUS would be required to withhold information from the database if disclosure is prohibited by law or court order, the privacy that was just recently mentioned.

The Open Book on Equal Access to Justice Act ensures that agencies are operating under the watchful public eye and that taxpayer dollars are being spent properly.

Our Federal Government is too big, in my opinion, and I believe it needs to be downsized; but until we make that happen, transparency should be the minimum requirement. That is why H.R. 1033 is important. It is common sense, plain and simple. When the Federal Government is spending money, Congress needs to exercise oversight to ensure it is being done the way the law requires.

For most people who are facing a lawsuit against the Federal Government, it is a once-in-a-lifetime challenge and a daunting suit to undertake, even if they are completely in the right. It is only fair that when the court rules in favor of an American in litigation against a Federal agency, the American should be permitted to recoup their legal costs from that Federal agency.

This act gave Americans the power to take on our vast and sprawling bureaucracy by removing barriers to justice for those with limited access to resources. However, since the original reporting requirements were halted by Congress, information on these payments under law is severely lacking. This tracking will ensure the integrity and the purpose in which the Congress had set forth.

It is past time we shine light on this issue. We owe transparency to the taxpayers who are financing the law, and we owe it to the citizens, the small businesses, the veterans, and the Social Security claimants, who rely on the law.

H.R. 1033 represents a bipartisan agreement that transparency over payments that were made under the Equal Access to Justice Act needs to be restored. The Open Book on Equal Access to Justice Act will help ensure that taxpayer dollars are being spent as intended under this law. This will bring the transparency and accountability back to a program where it is sorely needed; and that is just as simple and plain as it can get. So I would urge my colleagues to support this legislation.

Mr. RASKIN. Mr. Speaker, the gentleman from Georgia has made a very powerful argument for a bipartisan push for transparency and accountability.

I yield such time as he may consume to the distinguished gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I appreciate the time, and I appreciate the kind words that Chairman GOODLATTE

and my friend, Mr. COLLINS, have tossed my way.

We do get along up here, amazingly enough. People think that we all just fight all the time and we have nothing in common. There are some big issues that do divide us, and that is why you have competitive elections with two parties and two different debates. But most folks up here get along, and are friends, and we do have legislation that we can work on, and this is one of those places where Mr. COLLINS and Mr. GOODLATTE and other members of the Judiciary Committee worked with me and others to bring this bill to the floor.

The Equal Access to Justice Act will allow Americans to recover attorneys' fees and costs when they win a lawsuit against the Federal Government. This will enable ordinary citizens, veterans, seniors, small business owners, advocates for clean air and clean water, et cetera, to fight unfair or illegal government actions without fear of having to pay court costs and without fear of having attorneys' fees that they otherwise might not be able to afford.

The law has been a success. However, in 1995, an important reporting requirement was removed from the law, and it made it harder for the public to see how much money the government had awarded. Our bill, H.R. 1033, the Open Book on Equal Access to Justice Act, restores the law's tracking and reporting requirements of payments awarded so the American people can have access to this important information. It will do this by requiring the group called ACUS, an acronym, which we have too many of up here, but this one is the Administrative Conference of the United States, a highly respected nonpartisan agency which was greatly championed by Justice Scalia, to post in an online database the fees and costs awarded in these cases. The database would also include the number and nature of the claims involved. The availability of this information will help keep the public informed and help Congress to conduct better oversight.

I thank my Judiciary Committee colleague, DOUG COLLINS from Georgia, for his partnership on the bill. I would like to thank Representatives SCHRADER and COLLIN PETERSON for their support for this bill on our side of the aisle, as well as JASON CHAFFETZ, LIZ CHENEY, PAUL GOSAR, and RAUL LABRADOR on the Republican side, as well as Chairman GOODLATTE.

And I would like to recall the work of our former colleague, Congresswoman Cynthia Lummis, who had this bill in the past, and we worked together to try to make it a bipartisan effort and pass it. She worked doggedly on the legislation for years, and I know that she will be pleased that we are building upon her efforts. And while she is no longer here, she is truly in a better place, Wyoming, I think it is, a nice place.

I urge the House to pass the Open Book on Equal Access to Justice Act. And I was pleased the Cats won.

Mr. GOODLATTE. Mr. Speaker, I do not believe I have any speakers remaining.

I reserve the balance of my time.

Mr. RASKIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I want to recognize my colleagues on both sides of the aisle.

As Mr. COHEN has pointed out, this legislation has been a model of bipartisan collaboration, and the work product shows the investment of both sides in it. So I want to salute everybody for their diligence in helping to craft this important legislation. The gentlemen from Georgia (Mr. COLLINS) and the gentleman from Tennessee (Mr. COHEN), as well as our former colleague, the gentlewoman from Wyoming, Ms. Lummis, have cooperatively worked to effectuate a very effective, commonsense bill that will improve the accountability and the transparency of the Federal Government. This is a commendable accomplishment.

Accordingly, I would ask all of our colleagues to join us in supporting this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support the legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 1033.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 31 minutes p.m.), the House stood in recess.

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## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOLDING) at 6 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 699, by the yeas and nays; and

H.R. 863, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The second