

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7934
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Settlement Agreement
3 Information Database Act”.

**4 SEC. 2. INFORMATION REGARDING SETTLEMENT AGREE-
5 MENTS ENTERED INTO BY AGENCIES.**

6 (a) REQUIREMENTS FOR SETTLEMENT AGREE-
7 MENTS.—Subchapter I of chapter 3 of title 5, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 “§ 307. Information regarding settlement agreements

11 “(a) DEFINITIONS.—In this section:

12 “(1) AGENCY.—The term ‘agency’ has the
13 meaning given the term in section 3502 of title 44.

14 “(2) COVERED SETTLEMENT AGREEMENT.—

15 “(A) IN GENERAL.—The term ‘covered set-
16 tlement agreement’ means a settlement agree-
17 ment or deferred prosecution agreement that
18 meets 1 or more of the following requirements:

1 “(i) Requires not less than
2 \$10,000,000 in total explicitly obligated
3 payments of a settling party on the date
4 on which the settlement agreement is exe-
5 cuted.

6 “(ii) Involves the appointment of a
7 special master or monitor.

8 “(iii) Involves a party that is a State,
9 metropolitan city, local government, coun-
10 ty, or other unit of government that is not
11 the Federal Government.

12 “(iv) Is designated as a covered settle-
13 ment agreement by the Director as a result
14 of meeting additional criteria determined
15 by the Director as described in subsection
16 (b)(2)(C).

17 “(B) EXCLUSIONS.—The term ‘covered
18 settlement agreement’ does not include a settle-
19 ment agreement that relates to any of the fol-
20 lowing:

21 “(i) The United States Trustee Pro-
22 gram.

23 “(ii) A Federal employee personnel
24 action, including an action before the
25 Equal Employment Opportunity Commis-

1 sion, the Office of Special Counsel, or the
2 Merit Systems Protection Board, or any
3 other internal personnel-related matter.

4 “(iii) A non-prosecution agreement or
5 plea bargain.

6 “(iv) The Internal Revenue Code of
7 1986.

8 “(v) Any matter that may be brought
9 as an action pursuant to chapter 46 of title
10 18.

11 “(3) DIRECTOR.—The term ‘Director’ means
12 the Director of the Office of Management and Budg-
13 et.

14 “(4) LOCAL GOVERNMENT.—The term ‘local
15 government’ has the meaning given the term in sec-
16 tion 6501 of title 31.

17 “(5) ORIGINATING AGENCY.—The term ‘origi-
18 nating agency’ means an agency on behalf of which
19 or at the request of which another agency executes
20 a settlement agreement.

21 “(6) SETTLEMENT AGREEMENT.—The term
22 ‘settlement agreement’ means an agreement (includ-
23 ing a consent decree) that—

24 “(A) is entered into by an agency; and

1 “(B) resolves an alleged violation of Fed-
2 eral, civil, or criminal law.

3 “(7) STATE.—The term ‘State’ means each of
4 the several States, the District of Columbia, each
5 territory or possession of the United States, and
6 each federally recognized Indian Tribe.

7 “(b) COVERED SETTLEMENT AGREEMENT INFORMA-
8 TION DATABASE.—

9 “(1) AGENCY REQUIREMENT.—

10 “(A) IN GENERAL.—Not later than 2 years
11 after the date of the enactment of this section,
12 the head of each agency that has entered into
13 a covered settlement agreement shall establish
14 and maintain a public online database that,
15 subject to subparagraph (B), contains the fol-
16 lowing information and documents to the extent
17 practicable:

18 “(i) A list (in a categorized and
19 searchable format) that includes each cov-
20 ered settlement agreement entered into by
21 such agency and publishes with respect to
22 each such covered settlement agreement
23 the following:

1 “(I) Whether the covered settle-
2 ment agreement resolves a civil or
3 criminal claim or both.

4 “(II) The date on which each
5 party settling a claim under the cov-
6 ered settlement agreement executes
7 such covered settlement agreement.

8 “(III) Any specific statutory pro-
9 vision alleged to have been violated, as
10 may be set forth in any corresponding
11 public letter or complaint.

12 “(IV) Any expressly denominated
13 amount of fees and other expenses of
14 attorneys provided by or to the United
15 States.

16 “(V) The amount, if any, each
17 party settling a claim under the cov-
18 ered settlement agreement is explicitly
19 obligated to pay as set forth in such
20 covered settlement agreement.

21 “(VI) The amount, if any, each
22 party settling a claim under the cov-
23 ered settlement agreement is obligated
24 to pay as expressly specified under the

1 covered settlement agreement as a
2 civil or criminal penalty or fine.

3 “(VII) Any payment made under
4 the covered settlement agreement, in-
5 cluding the amount of any payment
6 made to or by the Federal Govern-
7 ment.

8 “(VIII) The projected duration of
9 the covered settlement agreement, if
10 available.

11 “(IX) A list of any State, local
12 government, county, or any other unit
13 of government that is directly identi-
14 fied by the substantive terms of the
15 covered settlement agreement.

16 “(ii) A copy of each such covered set-
17 tlement agreement.

18 “(B) EXEMPTIONS.—The requirement to
19 publish a copy of or any other information with
20 respect to a covered settlement agreement pur-
21 suant to subparagraph (A) does not apply to
22 the extent such copy (or portion thereof) or in-
23 formation—

24 “(i) is subject to a confidentiality pro-
25 vision or court order that prohibits the dis-

1 closure of such copy (or portion) or infor-
2 mation; or

3 “(ii) would be subject to withholding
4 from public disclosure under section 552.

5 “(2) GUIDANCE.—Not later than 1 year after
6 the date of the enactment of this section, the Direc-
7 tor, in coordination with the Attorney General, shall
8 issue, and periodically update as necessary there-
9 after, guidance for the head of each agency to imple-
10 ment paragraph (1) that includes the following:

11 “(A) Specific dates by which such head
12 shall publish information necessary to maintain
13 the database of such agency pursuant to para-
14 graph (1)(A), which shall be not less frequently
15 than annually.

16 “(B) Data standards, including common
17 data elements and a common, nonproprietary,
18 searchable, machine-readable, and platform-
19 independent format, for the publication of infor-
20 mation pursuant to paragraph (1)(A).

21 “(C) Additional criteria that such head
22 shall use to determine if a settlement agreement
23 is likely to require significant compliance costs
24 such that such head shall designate such settle-

1 ment agreement as a covered settlement agree-
2 ment.

3 “(D) A requirement that such head shall
4 use a uniform resource locator for the establish-
5 ment of the database of such agency pursuant
6 to paragraph (1)(A) that—

7 “(i) is—

8 “(I) in a consistent format across
9 agencies; and

10 “(II) descriptive, memorable, and
11 pronounceable; and

12 “(ii) may be ‘agencyname.gov/settle-
13 ments’.

14 “(E) A process that such head may use to
15 request certification from the Director that a
16 database of such agency that exists on the date
17 of the enactment of this section complies with
18 this subsection.

19 “(F) A process for requiring the head of
20 not less than 1 agency to publish a covered set-
21 tlement agreement on a database required by
22 paragraph (1)(A) if—

23 “(i) multiple agencies are a party to
24 such covered settlement agreement; or

1 “(ii) such head enters into an addi-
2 tional covered settlement agreement at the
3 request of or on behalf of an originating
4 agency.

5 “(3) NON-DISCLOSURE TRANSPARENCY.—

6 “(A) REPORT ON NON-DISCLOSURE.—Not
7 later than 2 years after the date of the enact-
8 ment of this section, and not less frequently
9 than annually thereafter, the head of each
10 agency that establishes and maintains a data-
11 base pursuant to paragraph (1)(A) shall submit
12 to Congress and make publicly available on the
13 website of such agency a report on covered set-
14 tlement agreements that the agency does not
15 publicly disclose in the database for the covered
16 settlements published in the previous year.

17 “(B) REPORT CONTENTS.—The report de-
18 scribed in subparagraph (A) shall include—

19 “(i) the number of covered settlement
20 agreements that were fully exempted under
21 paragraph (1)(B);

22 “(ii) for each covered settlement
23 agreement fully exempted under paragraph
24 (1)(B), the specific exemption under that
25 paragraph that applies; and

1 “(iii) in the case of a full exemption
2 under paragraph (1)(B)(ii), the specific ex-
3 emptions under section 552 that apply.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter I of chapter 3 of title 5, United States
6 Code, is amended by adding at the end the following new
7 item:

 “307. Information regarding settlement agreements.”.

8 (c) RULE OF CONSTRUCTION.—

9 (1) IN GENERAL.—Any information published
10 on a database established and maintained pursuant
11 to section 307(b)(1)(A) of title 5, United States
12 Code, as added by subsection (a), shall not affect the
13 terms of a settlement agreement or the interpreta-
14 tion or application of the settlement agreement.

15 (2) LEGAL RIGHTS.—The inclusion or omission
16 of information or documents in a database estab-
17 lished and maintained pursuant to section
18 307(b)(1)(A) of title 5, United States Code, as
19 added by subsection (a), shall not be construed as
20 creating any legal right or opportunity for judicial
21 review.

22 (3) FREEDOM OF INFORMATION ACT.—Nothing
23 in this Act, or the amendments made by this Act,
24 shall be construed to require the disclosure of infor-
25 mation or records that the head of an agency may

1 withhold from public disclosure under section 552 of
2 title 5, United States Code.

3 (4) CLASSIFIED INFORMATION.—Nothing in
4 this Act, or the amendments made by this Act, shall
5 be construed to require the disclosure of classified
6 information.

7 (d) APPLICABILITY.—This Act, and the amendments
8 made by this Act, shall apply with respect to—

9 (1) any covered settlement agreement (as de-
10 fined in section 307(a) of title 5, United States
11 Code, as added by subsection (a)) entered into on or
12 after the date of the enactment of this Act; and

13 (2) to the extent practicable, any such covered
14 settlement agreement that—

15 (A) was entered into on or after January
16 1, 2015; and

17 (B) remains in effect on or after the date
18 of the enactment of this Act.

