

December 9, 2021

The Honorable Chuck Schumer
Majority Leader
United States Senate

The Honorable Mitch McConnell
Minority Leader
United States Senate

RE: Public Access to Senate Legislation

Dear Majority Leader Schumer and Minority Leader McConnell:

Thank you for your continuing stewardship of Senate operations during these difficult times. We write to encourage improved public access to bills and amendments considered on the Senate floor. Transparency is a key aspect of democratic legitimacy and public participation in the legislative process and we appreciate your consideration of our request.

The *Congressional Record* provides the most complete public source for information for bill text and amendments. However, it is published each day after the conclusion of legislative proceedings and thereby provides a retrospective look at what happened. In circumstances where bills or amendments were offered on the same day they were considered, there is no systematic concurrent public availability of the text with the deliberations. This issue arises most frequently with respect to amendments and, to a lesser degree, Senate resolutions.

The legislative information website *Congress.gov* provides the most user-friendly official resource for bill text. It does not include the text of Senate floor amendments, but instead provides a hyperlink to the *Congressional Record*. For various reasons, at times it can take days or weeks for the text of legislation to be published on *Congress.gov*, and publication may occur after a measure has been considered by the Senate.

We note the Senate maintains an internal website available only to individuals with a Senate IP address that provides significant contemporaneous information about pending amendments.¹ The House of Representatives, which operates under significantly different rules, publishes both the text of legislation to be considered on the floor and all proposed

¹ The website is the Amendment Tracking System, available at ats.senate.gov. According to the Congressional Research Service, "ATS is a web application that displays images of submitted and proposed amendments to legislation pending before the U.S. Senate. Amendments are available on ATS approximately 15 minutes after the Bill Clerk receives them." See *Policy and Legislative Research for Congressional Staff: Finding Documents, Analysis, News, and Training* (2019), Congressional Research Service (R43434), <https://www.everycrsreport.com/reports/R43434.html>

amendments thereto on public websites prior to consideration.² In fact, the House-run websites provide the best official resource for timely access to this information, although it will become available after-the-fact in the *Congressional Record* and on *Congress.gov*.

We will not elucidate the issues arising inside the Congress from the current Senate amendment tracking system beyond its apparent limitations and inefficiencies. But with respect to external stakeholders, the current system also creates unequal access to information, whereby those with connections to Senate offices can at times gain access to information far more easily than those who do not. While some information asymmetries are inevitable, privileged access to public business that currently is the subject of floor debate should be minimized to the extent practically possible.

It is our view that congressional offices, the public, and the press need greater assistance with tracking and accessing bills and amendments set for debate on the Senate floor. We need more transparency. In our modern era, this suggests contemporaneous online availability of the text of legislation and amendments and improved archival access. We encourage the Senate to consider a multi-pronged approach to addressing these issues.

First, we suggest a review of the current mechanism the Senate uses to publish this information internally, the fitnesses and adaptability of technologies used in the House, and an exploration of technologies and tools currently employed inside the Legislative branch (such as *Congress.gov*) as well as those in other legislatures (such as the UK Parliament).

Second, we suggest an examination of the extent to which the text of legislation and amendments printed in the *Congressional Record* also are contemporaneously published on *Congress.gov* and an exploration of the various points in the legislative process where bill text and amendments exist in final form.

In both instances, the perfect should not be the enemy of the good, and we would welcome steady progress on improving the public availability of this information with an eye to its publication in interoperable, structured-data formats.³ We expect the Legislative Branch Bulk Data Task Force would be an invaluable sounding board concerning building a robust system that can endure and be extended over time.

² The text of legislation scheduled to be considered on the House floor is published at <https://docs.house.gov/floor/> and prior notice of legislation expected to be considered is published by the House Majority Leader. The text of amendments to legislation scheduled to be considered on the floor is published by the House Rules Committee at <https://rules.house.gov/legislation>.

³ The United States Legislative Markup Schema already in use by the Congress would easily satisfy this request. See <https://github.com/usgpo/uslm>.

We welcome the opportunity to discuss this further. Please contact Daniel Schuman, Policy Director for Demand Progress, at Daniel@DemandProgress.org or Zach Graves, Head of Policy for the Lincoln Network, at Zach.Graves@JoinLincoln.org.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)
Americans for Prosperity
Americans for Tax Fairness
Bend the Arc: Jewish Action
Bipartisan Policy Center
Blue Wave Postcard Movement
Campaign for Accountability
Citizens for Responsibility and Ethics in Washington (CREW)
Community Research
Constitutional Alliance
Data Coalition
Defending Rights & Dissent
Demand Progress
Digital Democracy Project
Due Process Institute
Government Accountability Project
Government Information Watch
GovTrack.us
Issue One
Lincoln Network
Media Alliance
National Security Counselors
National Taxpayers Union
Oceana
Open Secrets
Open The Government
Pay Our Interns
Progress America
Project On Government Oversight
Protect Democracy
Public Citizen
Public Employees for Environmental Responsibility
Quorum
R Street Institute

Revolving Door Project
RootsAction.org
Senior Executives Association
Taxpayers for Common Sense
Transparency International — U.S. Office
Unite America
URGE: Unite for Reproductive & Gender Equity

Alex Garlick, The College of New Jersey*
Brian Baird, Former Member of Congress*
E.J. Fagan, University of Illinois at Chicago*
Gerald Epstein, Formerly with Congressional Office of Technology*
James Thurber, American University*
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Lorelei Kelly, Beeck Center for Social Impact + Innovation at Georgetown University*
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Norman Ornstein, American Enterprise Institute*
Robert Cook-Deegan, Arizona State University*
Samuel Workman, University of Oklahoma*

*=Affiliations listed for identification purposes only.

cc: The Honorable Amy Klobuchar
The Honorable Roy Blunt