AMENDMENT NO. _______   Calendar No. _______

Purpose: To increase the public accessibility of information relating to trade negotiations.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H.R. 1314

AMENDMENT N° 1297

By Blumenthal

To: Amdt No 1221

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to the amendment (No. 1221) proposed by Mr. HATCH

Viz:

1 In section 104, strike subsection (d) and insert the
2 following:
3   (d) CONSULTATIONS WITH THE PUBLIC.—
4       (1) TRANSPARENCY REQUIREMENTS FOR
5       TRADE NEGOTIATIONS.—
6       (A) IN GENERAL.—Except as provided in
7       subparagraph (C), the United States Trade
8       Representative shall make available to Members
9       of Congress and the public, through means in-
10       cluding publication on a publicly available Inter-
net website, all formal proposals advanced by
the United States in negotiations for a trade
agreement pursuant to this title not later than
5 calendar days after the earliest of—

(i) the date on which the proposal is
shared with another party to the negotia-
tions;

(ii) the date on which the proposal is
submitted to an advisory committee estab-
lished under section 135 of the Trade Act
of 1974 (19 U.S.C. 2155); or

(iii) the date on which the proposal is
cleared through the interagency process es-
tablished to approve official positions in
trade negotiations.

(B) CLASSIFIED PROPOSALS SHARED WITH
FOREIGN GOVERNMENTS.—If text proposed by
the United States Trade Representative to be
included in a trade agreement is classified and
is shared with any official of a foreign govern-
ment, that text shall be declassified when the
text is shared with that official and made avail-
able to Members of Congress and the public in
accordance with subparagraph (A).
(C) EXCEPTIONS.—The Trade Representative shall not be required to make available under subparagraph (A)—

(i) any formal proposal advanced by the United States in negotiations for a trade agreement that is intended to be contained in the provisions of the agreement relating to market access for goods and relates to such market access; or

(ii) subject to subparagraph (B), any classified information that does not constitute a formal proposal advanced by the United States in negotiations for a trade agreement.

(D) FORMAL PROPOSAL DEFINED.—

(i) IN GENERAL.—In this paragraph, the term “formal proposal advanced by the United States in negotiations for a trade agreement”—

(I) means any proposed language, position paper, summary of position, or other document that—

(aa) includes analysis or other language intended to in-
form negotiations for a trade agreement;

(bb) is offered or intended to be offered on behalf of the United States to any party to the negotiations; and

(ce) reflects the official position of the United States with respect to the negotiations; and

(II) includes any communication regarding the negotiations that is shared with other parties to the negotiations after being cleared through the interagency process established to approve official positions in trade negotiations or that is submitted to an advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(ii) EXCLUSION.—The term "formal proposal" does not include any communication between negotiators or other officials participating in negotiations for a trade agreement that is not intended to reflect the official position of the United States,
including any communication not cleared through the interagency process described in clause (i)(II).

(E) EFFECTIVE DATE.—

(i) IN GENERAL.—The provisions of this paragraph apply with respect to negotiations for a trade agreement initiated on or after or pending on the date of the enactment of this Act.

(ii) PENDING TRADE AGREEMENTS.—In the case of a trade agreement pending on the date of the enactment of this Act, the President shall, not more than 30 calendar days after such date of enactment, make available to Members of Congress and the public all formal proposals that have been advanced by the United States in negotiations for that trade agreement in accordance with this paragraph.

(F) SHARING OF INFORMATION WITH MEMBERS OF CONGRESS AND STAFF.—Nothing in this section shall be construed to prevent or otherwise limit the sharing of classified or unclassified information with Members of Con-
gress and staff in accordance with subsections (a) and (b).

(2) GUIDELINES FOR PUBLIC ENGAGEMENT.—

(A) IN GENERAL.—In carrying out the requirements of paragraph (1), the United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(i) shall, not later than 120 days after the date of the enactment of this Act, develop written guidelines on public access to information regarding negotiations conducted under this title; and

(ii) may make such revisions to the guidelines as may be necessary from time to time.

(B) PURPOSES.—The guidelines developed under subparagraph (A) shall—

(i) facilitate transparency;

(ii) encourage public participation;

and

(iii) promote collaboration in the negotiation process.
(C) CONTENT.—The guidelines developed under subparagraph (A) shall include procedures that—

(i) provide for rapid disclosure of information in forms that the public can readily find and use; and

(ii) provide frequent opportunities for public input through Federal Register requests for comment and other means.

(D) DISSEMINATION.—The United States Trade Representative shall disseminate the guidelines developed under subparagraph (A) to all Federal agencies that could have jurisdiction over laws affected by trade negotiations.