



December 7, 2020

NTU urges all Senators and Representatives to vote “YES” on H.R. 8235, the Open Courts Act of 2020. This bill would provide the public with free access to electronic court records, reforming the expensive and unwieldy PACER system that has been the subject of lawsuits and bipartisan scorn. The Open Courts Act strikes the right balance between providing taxpayers unfettered access to public records and ensuring that the judicial branch has the funds necessary to update and manage electronic records systems. This legislation would be a win for taxpayers and government watchdogs alike.

Free and easy public access to government records is a hallmark of democracy, and the Open Courts Act of 2020 would extend these principles to an electronic court records system that has long been too cumbersome and expensive for citizens and non-governmental watchdogs. This legislation would instruct the Administrative Office of the United States Courts to “develop, deliver, and sustain . . . one system for all public court records” before 2025. Rather than forcing users to register with the courts and assessing them unnecessary per-page access fees, as the incumbent PACER system does, the new records system required by the Open Courts Act would be “publicly accessible, free of charge and without requiring registration.” This will make it easier for taxpayers, civil society organizations, and the legislative branch to oversee the judicial branch and hold it accountable.

While we do not take the potential imposition of new court fees lightly, this bill strikes the right balance by shifting the burden of funding court records maintenance from the general public and low-volume users to for-profit high-volume users and federal agencies. The legislation also ensures that any new proposed fee schedules and adjustments are subject to rigorous review by a new Advisory Panel, the public, and Congress.

Civil society organizations, media organizations, and researchers have sued the federal court system for the fees it levies under the current PACER system, and in August a federal appeals court [affirmed](#) a lower court ruling that the federal government cannot use excessive PACER fees to fund court technology projects. It is time to replace this outdated system, which charges citizens too much for records the public has a right to see.

Roll call votes on H.R. 8235 will be included in NTU’s annual Rating of Congress and a “YES” vote will be considered the pro-taxpayer position.

If you have any questions, please contact NTU Policy and Government Affairs Manager Andrew Lautz at alautz@ntu.org.
