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Senate Update – February 19, 2008

Last Week in the Senate

The Senate resumed consideration of the FISA Amendments Act of 2007 (S. 2248). On February 12, 2008, the Senate rejected all of the amendments offered to S. 2248:

- 1) Senator Diane Feinstein (D-CA) offered an amendment that would provide a statement of the exclusive means by which electronic surveillance and interception of certain communications may be conducted. The amendment, which required 60 votes to pass, was rejected by a vote of 57 to 41. ([Record Vote 13](#))
- 2) Senator Russ Feingold (D-WI) offered an amendment that would provide safeguards for communications involving individuals inside the United States. The amendment was rejected by a vote of 35 to 63. ([Record Vote 14](#))
- 3) Senator Christopher Dodd (D-CT) offered an amendment to strike the provisions providing immunity from civil liability to telecommunications companies who provide assistance to the Government. This amendment was rejected by a vote of 31 to 67. ([Record Vote 15](#))
- 4) Senator Feingold offered an amendment that would require government to certify that it is collecting the communications of foreign targets from whom it expects to obtain foreign intelligence information, not engaging in "bulk collection." This amendment was rejected by a vote of 37 to 60. ([Record Vote 16](#))
- 5) Senator Arlen Specter (R-PA) offered an amendment that would allow the FISA court to substitute the government for the telecommunications company as the defendant in certain civil actions. This amendment was rejected by a vote of 30 to 68. ([Record Vote 17](#))
- 6) Senator Feinstein offered an amendment that would allow the FISA court to determine if telecommunications companies should be given immunity. This amendment was rejected by a vote of 41 to 57. ([Record Vote 18](#))

Following the rejection of all the amendments, the Senate passed S. 2248 by a vote of 68 to 29 ([Record Vote 20](#)). The Senate bill includes retroactive legal immunity for telecommunications companies that assisted the government with warrantless wiretapping.

**Note: During the week of January 22, the Senate voted to table a Senate Judiciary Committee substitute amendment to S. 2248 that would, according to the Statement of Administration Policy for this bill, "degrade our foreign intelligence collection capabilities. The Judiciary Committee's amendment would impose unacceptable and potentially crippling burdens on the collection of foreign intelligence information by expanding FISA to restrict facets of foreign intelligence collection never intended to be covered under the*

statute. Furthermore, the Judiciary Committee amendment altogether fails to address the critical issue of liability protection.” The SAP included a veto threat for S. 2248 if it contained the Judiciary Committee’s amendment. For information regarding previous action on this legislation, please see last week’s [Senate Update](#).

On February 13, 2008, the Senate agreed to the Conference Report for the Intelligence Authorization Act for Fiscal Year 2008 (H.R. 2082) by a vote of 51 to 45. ([Record Vote 22](#))

**Note: The House passed the Conference Report to H.R. 2082 on December 13, 2007, by a vote of 222 to 199. ([Legislative Digest for the Conference Report to H.R. 2082](#))*

The Senate then took up consideration of the Indian Health Care Act Amendments of 2007 (S. 1200) for the balance of the week. The Senate first considered this bill the week of January 22, 2008. The legislation was introduced by Senator Byron Dorgan (D-ND) on April 24, 2007. The Senate considered the following amendments to S. 1200:

- 1) Senator John Tester (D-MT) offered an amendment that expresses that it is the sense of Congress to encourage state and local law enforcement to work with tribal organizations to combat methamphetamine use. The amendment was agreed to by a vote of 95 to 0. ([Record Vote 23](#))
- 2) Senator Byron Dorgan (D-ND) offered a perfecting amendment to the bill to address White House concerns with the bill. It was agreed to by a vote of 95 to 0. ([Record Vote 24](#))
- 3) Senator Tom Coburn (R-OK) offered an amendment to provide more health care choices to tribal members. The amendment was rejected by a vote of 28 to 67. ([Record Vote 25](#))
- 4) Senator Coburn offered an amendment to prioritize the use of medical resources to providing basic medical care. It was rejected by a vote of 21 to 73. ([Record Vote 26](#))
- 5) Senator Coburn offered an amendment that allows Native Americans who are raped or sexually assaulted to force their attackers to undergo testing for HIV/AIDS and other sexually transmitted diseases. This amendment was agreed to by a vote of 94 to 0. ([Record Vote 27](#))

**Note: The Congressional Budget Office estimates that implementing S. 1200 would “have discretionary costs of \$2.7 billion in 2008, about \$16 billion over the 2008-2012 period, and about \$35 billion over the 2008-2017 period, assuming appropriation of the necessary amounts. We also estimate that enacting the bill would increase direct spending by \$9 million in 2008, \$53 million over the 2008-2012 period, and \$129 million over the 2008-2017 period.”*

This Week in the Senate

The Senate is not in session the week of February 18. They will resume consideration of S. 1200 the following week.