



INTELLIGENCE COMMITTEE

U.S. Senator Kit Bond ■ *Vice Chairman*

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BOND URGES DEMOCRATIC LEADERSHIP TO HELP KEEP AMERICAN FAMILIES SAFE FROM ATTACK *Senator Calls on House to Accept Best Offer on Terrorist Tracking Bill*

WASHINGTON, DC – U.S. Senator Kit Bond, Vice Chairman of the Senate Intelligence Committee, today urged the Democratic leadership in the House to help keep American families safe from attack and accept the latest offer on terrorist tracking legislation before Congress leaves for another one-week recess.

“From day one I have been willing to work with any member of Congress – Republican or Democrat – who is serious about protecting American families from terrorists,” said Bond. “We have compromised and compromised but we will not compromise the security of the American people and that is some in the House are demanding we do.”

Earlier this year the Senate passed by an overwhelming 68-29 margin a bipartisan Foreign Intelligence Surveillance Act (FISA) – or terrorist surveillance – compromise that had been fully vetted by the intelligence community and added unprecedented levels of civil liberty protections. The bill had earlier passed the Senate Intelligence Committee with a vote of 13-2. Although a majority in the House supported the Senate bill, Speaker Pelosi chose to block the bipartisan compromise from coming to a vote, instead passing a highly partisan and flawed bill on a party-line vote.

After the House chose not to act on the Senate-passed bill, Bond was asked by House leaders to see if a compromise could be reached that would allow our intelligence operators and law enforcement community to track terrorists and prevent attacks. According to the House Majority leader Steny Hoyer the two top areas of concern with the bipartisan Senate-passed bill were procedures in Title I and the court process in Title II. Bond negotiated on those two areas, and reached a tentative agreement on the central issues in Title II without undermining the critical early-warning system in Title I. Unfortunately, the tentative agreement did not result in a final compromise, Mr. Hoyer raised additional items, many of which had been debated and defeated on the Senate floor earlier this year because they would have impeded the ability of the Intelligence Community to protect our people from terrorists.

Although the situation for a compromise looked bleak, Bond was not willing to throw in the towel on this critical terror-fighting compromise. In addition to the negotiated Title I and II concessions, this proposal includes the Democrats’ enhanced “exclusive means” statement and an Inspector General audit of the President’s Terrorist Surveillance Program. Mr. Hoyer’s deadline for a compromise by Memorial Day and this GOP proposal is an effort to meet the deadline.

“I hope the House Democrats will say yes to this plan that will help prevent attacks, said Bond.”

Bond, who has pushed for a fix to the Foreign Intelligence Surveillance Act (FISA) since last summer, stressed that failure to pass a long-term fix would impair our ability to prevent attacks. FISA, without updated terrorist surveillance legislation, would not allow us to adjust quickly to new terrorist threats against the homeland. Also, without important civil liability protections for those who assist the government, we may also lose their cooperation and the ability to compel carriers to comply, which is critical to finding and listening in on terrorists who are intent on harming us.

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Concessions in Republican Offer of 21 May 2008

<i>SENATE BILL</i>	<i>CONCESSIONS</i>
<i>Title I</i>	
Post-court review of targeting/minimization procedures with acquisition able to begin immediately	Prior-court review of targeting/minimization procedures; acquisition cannot begin until court approves procedures unless “exigent circumstances” exist
No “exigent circumstances” provision	Exigent circumstances provision allowing immediate implementation of directive only if intelligence important to national security may be lost or not timely acquired and time does not permit issuance of an order
No schedule for filing reauthorizations with FISC	Statutory schedule for reauthorizations; ensures that court has time for prior review before acquisition may continue; must be submitted at least 30 days in advance
No effective date for authorizations	Requires effective date that is at least 30 days from submission of certification; ensures prior court review except when exigent circumstances exist
No need to amend certification to change effective date of acquisition	Requires amended certification in order to advance or delay effective date
No time period for FISC review of certification and procedures	Requires FISC to approve/disapprove certification and procedures within 30 days of submission; ensures court review before Executive branch may act
Release from liability: “notwithstanding any other law, no cause of action shall lie” against any provider for assistance under directive	Deletes “notwithstanding any other law” even though it is consistent with other provisions in FISA
All judicial proceedings under foreign targeting provision must be conducted expeditiously	All time limits for judicial decisions apply, unless court extends time period for due process reasons; ensures court review before Executive branch may act
Exclusive Means: simple restatement of provision in 1978 FISA	Accepts enhanced exclusive means provision
	Accepts numerous stylistic changes from Counterproposal

<i>Title II</i>	
Review by court under “abuse of discretion” standard	Review by FISC under broader “ preponderance of the evidence ” standard
No provision for court to review letters to providers or supplemental materials	Allows FISC to review letters to providers or supplemental materials
No provision for parties to appear or participate in briefing	Allows parties to appear, provide directives, or participate in legal briefings before the Court

<i>Title III</i>	
No review of TSP	Accepts enhanced IG audit of TSP provision with slight modifications