



U.S. House of Representatives Committee on the Judiciary F. James Sensenbrenner, Jr., Chairman

<http://judiciary.house.gov/>

News Advisory

For immediate release
September 28, 2006

Contact: Jeff Lungren/Terry Shawn
202-225-2492

Sensenbrenner Statement During House Debate on FISA Modernization Legislation

WASHINGTON, D.C. – House Judiciary Committee Chairman F. James Sensenbrenner, Jr. (R-Wis.), a cosponsor of H.R. 5825, the “Electronic Surveillance Modernization Act,” delivered the following statement during tonight’s House debate:

“Mr. Speaker, I rise in strong support of H.R. 5825, the ‘Electronic Surveillance Modernization Act.’

“In 1978, Congress enacted the Foreign Intelligence Surveillance Act (FISA) to provide a mechanism for the domestic collection of foreign intelligence information. The goal of FISA was to secure the integrity of the Fourth Amendment while protecting the national security interest of the United States.

“When FISA was enacted, domestic communications and international communications were fundamentally different from one another. Specifically, domestic communications were transmitted *via* ‘wire,’ while international communications were transmitted *via* ‘radio.’ In modern times, international communications are increasingly transmitted through undersea cables, which are considered wire.

“H.R. 5825 provides a technology-neutral definition of ‘electronic surveillance’ to ensure that international communications are treated the same under the law regardless of the technology used to transmit them. The bill also simplifies the process for getting a FISA court order and returns the focus of FISA to protecting those with a Fourth Amendment expectation of privacy.

“On December 16th of last year, based on the leak of classified information, the *New York Times* published a story regarding a Terrorism Surveillance Program operated by the National Security Agency. The President subsequently acknowledged that he had authorized this program after 9/11 to intercept the international communications of those with known links to al-Qaeda and related terrorist organizations. Notwithstanding the Administration’s position that this program is fully consistent with U.S. law and the Constitution, the President

has requested that Congress provide additional and specific authorization to ensure that U.S. laws governing electronic surveillance are updated to reflect modern modes of communication.

“Mr. Speaker, terrorist organizations are global in scope and rely upon electronic communications to plan and execute their murderous designs. We can all agree that electronic communications must *not* be impervious to detection by United States law enforcement and intelligence officers whose vigilance has helped avert another terrorist attack on our soil in the five years since the 9/11 attacks.

“As General Hayden testified on July 26, 2006, ‘[T]he National Security Agency intercepts communications and it does so for only *one purpose: to protect the lives, the liberties and the well being of the citizens of the United States from those who would do us harm.*’ General Hayden also noted that, ‘. . .The revolution in telecommunications technology has extended the actual impact of the FISA regime far beyond what Congress could ever have anticipated in 1978. And I don’t think that anyone could make the claim that the FISA statute was optimized to deal with a 9/11 or to deal with a lethal enemy who likely already had combatants inside the United States.’

“Mr. Speaker, H.R. 5825 updates FISA to reflect modern technology and the changing nature of the terrorist threat. This legislation combines the Judiciary Committee’s provisions that streamline the FISA process with Intelligence Committee provisions that provide the President much-needed statutory flexibility to conduct surveillance of foreign communications.

“This legislation responds to the urgent need to provide our nation’s law enforcement and intelligence communities with 21st century tools to meet and defeat a 21st century threat. It is crucial to improving our national efforts to detect and disrupt acts of terrorism *before* they occur on American soil. The bill is the product of extensive discussion and thoughtful deliberation. It will make America safer while safeguarding Americans’ civil liberties.

“I urge support for this vital legislation and reserve the balance of my time.”

#####