



HOUSE PASSES PRIVACY BILL OPPOSED BY MANY PRIVACY ADVOCATES

On Thursday, the House passed the USA Freedom Act, a bill that is intended to stop the U.S. government's mass collection of Americans' phone records. The bill, which has the support of President Obama, passed by a wide bipartisan margin: 303 to 121.

Many privacy advocates, however, are unhappy with the bill, which underwent substantial last minute changes. Critics say the bill contains a number of loopholes and vaguely defined provisions that the government could use to maintain its current spy powers. The measure will now move to the Senate for review, where powerful lawmakers have also noted concerns about the House's version.

Under the legislation, the government would no longer retain bulk collection of phone metadata—the numbers and timestamps of calls but not their actual contents. Instead, phone companies will keep those records and be required to hand them over to the NSA and other intelligence agencies only after the government receives approval for each data search from the Foreign Intelligence Surveillance Court, except in emergency cases.

The amended language, however, dropped a provision that would have allowed companies to disclose the level of surveillance orders received under Section 702 of the Foreign Intelligence Surveillance Act, and it codifies a two-year delay for making some surveillance orders public.

But the new version of the bill that emerged Tuesday—the product of more than a week of backroom negotiations among House leadership, the White House and the intelligence community—endured a thorough lashing from tech giants, such as Google and Facebook and a number of privacy watchdogs, such as the American Civil Liberties Union and the Open Technology Institute.

Drawing particular consternation is the bill's altered definition of "specific selection term," which provides a framework for how intelligence agencies would be required to define their desired targets when conducting a search of phone records. An earlier draft, including one passed two weeks ago by the Judiciary and Intelligence committees, defined selectors as "a person, account or entity." The new bill tacks on words like "address" and "device" to the list and contains language that critics argue could be interpreted loosely.

Rep. Justin Amash, one of the Freedom Act's original cosponsors and a vocal critic of NSA spying, announced Thursday morning he was voting no on the measure because it "codified a large-scale, unconstitutional domestic spying program" and violated the Fourth Amendment.

While the language would prohibit a telephone company from handing over all phone records to the government, Amash said, it was "so weakened in behind-the-scenes negotiations over the last week that the government still can order—without probable cause—a telephone company to turn over all call records for 'area code 616' or 'phone calls made east of the Mississippi.'"

Senate Judiciary Chairman Patrick Leahy said his panel will consider the legislation next month before it heads to the floor. Leahy, who authored the Senate version of the original Freedom Act, expressed a number of concerns about the House-passed bill, such as a lack of reforms related to national security letters, a strong special advocate to work within the FISA Court, and additional transparency measures.

"Today's action in the House continues the bipartisan effort to restore Americans' civil liberties," Leahy said in a statement immediately after the vote. "But I was disappointed that the legislation passed today does not include some of the meaningful reforms contained in the original USA Freedom Act."

TAX EXTENDERS REMAIN STALLED IN THE SENATE

At one point it looked like bipartisan support for the package of tax extenders in the Senate would be able to overcome the partisan rancor and parliamentary gamesmanship. Unfortunately, for supporters of the extenders package, that hasn't been the case so far.

While the tax-extender package made it out of committee, its future on the floor has been uncertain because of an inability for Democrats and Republicans to agree to possible amendments to the legislation. And while Senate Finance Committee Chairman Ron Wyden (D-OR) and Majority Leader Harry Reid (D-NV) are continuing to speak with Republicans about an agreement on amendments, the prospects that Democratic leaders would bring the bill to the floor again soon look questionable.

The bipartisan tax-extendors package stalled on the floor last week when Republicans blocked Majority Leader Harry Reid's cloture motion to end debate. Republicans did so – despite many of them supporting the underlying bill – because of Senator Reid's refusal to allow Republican amendments.

Reid, however, said he remains open to amendments, but rejected any measures that would touch the Affordable Care Act, like one offered last week by Republican Sen. Pat Toomey of Pennsylvania that would repeal the medical-device tax included in the law.

"The Republicans can't get out of their head Obamacare," Reid said. "That's an Obamacare amendment. We're not going to do that. They can have as many amendments as practical to change the bill that's on the floor, and there's plenty of amendments that need to be offered on that. We have a lot on our side."

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NET NEUTRALITY RULES FACE CRITICISM FROM BOTH PARTIES

At a hearing this week, Federal Communications Commission (FCC) Chairman Tom Wheeler came under criticism from left and right over new proposed net-neutrality rules.

Last week, the FCC voted to move ahead with a net-neutrality proposal that would limit the ability of broadband providers to tamper with Internet traffic. The proposal would bar providers like Comcast from blocking websites, but they could charge websites for faster service as long as the arrangements are "commercially reasonable."

Chairman Wheeler is trying to rewrite the net-neutrality regulations after a federal appeals court struck down the old (stronger) rules earlier this year. The commission is now accepting comments on its proposal and will have to vote again in several months to enact final regulations.

Republicans worry the new rules will stifle the Internet with unnecessary regulations, while Democrats warned that his net-neutrality proposal could distort the Internet in favor of the largest corporations.

Wheeler, however, is in a tough spot thanks to the January court decision. When the D.C. Circuit Court of Appeals struck down the old rules, it said the commission had gone too far by trying to cut off all pay-for-priority deals. Using the current legal authority, the FCC essentially must allow at least some "fast lanes" or risk having its rules thrown out again.

PATENT REFORM APPEARS DEAD IN THE SENATE

There had been high hopes that negotiations in the Senate would finally lead to a bipartisan patent reform bill. Unfortunately, it appears the effort to reduce frivolous patent-infringement lawsuits is all but dead in Congress.

The Senate Judiciary Committee announced Wednesday that it was taking its patent consideration off its agenda, and gave no indication when it may next be up for a vote. The bill was scheduled for a vote Thursday, and sources on and off Capitol Hill had expressed renewed confidence that the package – already delayed for consideration several times over – was finally ready to be passed out of committee.

"Unfortunately, there has been no agreement on how to combat the scourge of patent trolls on our economy without burdening the companies and universities who rely on the patent system every day to protect their inventions," Chairman Patrick Leahy said in a statement. "We have heard repeated concerns that the House-passed bill went beyond the scope of addressing patent trolls and would have severe unintended consequences on legitimate patent-holders who employ thousands of Americans."

Leahy continued, "If the stakeholders are able to reach a more targeted agreement that focuses on the problem of patent trolls, there will be a path for passage this year and I will bring it immediately to the committee."

Negotiations over how to appropriately address patent trolls – companies that buy up patents and then leech cash from inventors by threatening infringement lawsuits – have repeatedly bedeviled Senate staffers working on the issue. Throughout the debate, heavy lobbying from a wide swath of tech companies, entrepreneurs, pharmaceutical companies, universities, and financial services continued to complicate the multi-issue discussions.

In particular, fee-shifting, which would make the loser pay the winner's legal fees in some infringement cases that are considered meritless, proved to be a sticking point. Republicans generally favor a strong fee-shifting provision, but Democrats, who typically earn support from trial lawyers fearful of anything that sounds like tort reform, are less supportive.

Late last year, the House passed the Innovation Act with enormous bipartisan support. That bill, sponsored by House Judiciary Chairman Bob Goodlatte, would require plaintiffs to be more specific in their lawsuits, increase transparency of patent ownership, reduce the costs of discovery, and protect end users, such as coffee shops that might purchase a patent-protected item from a vendor. It also makes it easier for those who successfully defend themselves against a patent lawsuit to recover legal costs.

OBAMA TO TAP SAN ANTONIO MAYOR TO HEAD HUD

President Obama is expected to nominate San Antonio Mayor Julian Castro (D-TX) to head the Department of Housing and Urban Development. Castro would replace current HUD director Shaun Donovan, who is expected to move to the Office of Management and Budget.

Castro is seen as a rising star in the Democratic Party and his nomination would help President Obama among Latino leaders who have criticized the President over the lack of Latino appointments in his administration.

Castro, who gave the keynote address at the 2012 Democratic National Convention, is serving his third two-year term as the Mayor of San Antonio. His twin brother, Joaquin, is a first-term Democratic Congressman who is frequently mentioned as a potential challenger to Ted Cruz in 2016.

Indeed, Julian Castro has even been mentioned as a potential Vice Presidential candidate in 2016.

TRANSPORTATION IN FOCUS

WRRDA sails through

Despite opposition from conservative organization, the House overwhelmingly approved the Water Resources Reform and Development Act (WRRDA) conference report. The final tally was 412 to 4. The size of the vote was particularly significant considering groups like Heritage Action opposed the bill and "key-voted" the House action.

Just a few hours before the vote, the Congressional Budget Office released the score for the bill. WRRDA checks in at \$12.3 billion over ten years: \$5.4 billion in the first five years and another \$6.9 billion in the second five. The 2007 water bill that was targeted for extensive earmarks, by comparison, clocked in at \$23.2 billion.

On Thursday afternoon, the Senate followed suit and easily approved the WRRDA conference report by a vote of 91 to 7.

Political bits

House

Georgia 4th Congressional District: Rep. Hank Johnson (D-GA) narrowly survived his primary battle against former DeKalb County Sheriff Tom Brown (D-GA) 55 to 45 percent.

Idaho 2nd Congressional District: Rep. Mike Simpson (R-ID) handily defeated his primary challenger Bryan Smith (R-ID), who was backed by the Club for Growth. Simpson finished with 62 percent of the vote to 38 percent for Smith.

Michigan 11th Congressional District: Rep. Kerry Bentivolio (R-MI), who faces a well-funded primary challenger, lost his campaign manager this week. The departure is just the latest setback for Bentivolio and comes just a week after the Chamber of Commerce endorsed his primary opponent.

Pennsylvania 9th Congressional District: Rep. Bill Shuster (R-PA) won his primary with 53% of the vote, compared to 35 percent for Tea Party-backed businessman Art Halvorson (R-PA).

Pennsylvania 13th Congressional District: State Rep. Brendan Boyle (D-PA) won the Democratic nomination to succeed Rep. Allyson Schwartz (D-PA) after defeating Chelsea Clinton's mother-in-law, former Rep. Marjorie Margolies (D-PA).

Senate

Georgia: Businessman David Perdue (R-GA) and Rep. Jack Kingston (R-GA) moved on to a July run-off after Tuesday's GOP primary. Perdue finished 31 percent, Kingston 26 percent, Karen Handel 22 percent and

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Reps. Paul Broun and Phil Gingrey tied at 10 percent.

Kentucky: Senate Minority Leader Mitch McConnell (R-KY) easily dispatched his Tea Party-backed opponent Matt Bevin (R-KY) by a 60 percent to 35 percent margin.

Oregon: Physician Monica Wehby (R-OR) won the GOP nomination defeating her much more conservative opponent, State Rep. Jason Conger (R-OR), by a margin of 51 percent to 37 percent.

Governor

Idaho: Governor Butch Otter (R-ID) defeated his primary challenger State Senator Russ Felcher (R-ID) by a narrow 51 to 44 percent in the Tuesday primary.

Pennsylvania: Businessman Tom Wolf (D-PA) easily captured the Democratic nomination for Governor. Wolf received 58 percent of the vote, while Rep. Allyson Schwartz (D-PA) received 18 percent and State Treasurer Rob McCord (D-PA) received 17 percent.

A look ahead

House

Thursday, May 29 – The House Veterans' Affairs Committee's Oversight and Investigations Subcommittee will hold a hearing, "Assessing Inadequacies in VA Data Usage for and Services Provided to Visually Impaired Veterans," at 1:00 p.m. in 334 Cannon.

Senate

Tuesday, May 27 – The Senate Indian Affairs Committee will hold a field hearing, "The Indian Health Service: Ensuring the IHS Is Living Up to Its Trust Responsibility," at 10:30 a.m. at 510 North Broadway in Billings, Montana.

Washington by the numbers

\$445 million – Amount spent on political ads mentioning the Affordable Care Act since it passed in 2010.

30 percent – Estimated **increase** in the price of Kellogg's Corn Flakes in the next 15 years due to climate change.

They said what?

"Everybody in Arkansas is running against Obama. Got a pothole? Well, that's Obama's fault." – Clinton School of Public Service Dean Skip Rutherford (**National Journal**)

Washington humor

"Thursday is the deadline for Iran to meet a series of measures to delay its nuclear program. Then Iran said, 'Do you mean 'DEADLINE deadline' or 'Sign up for Obamacare deadline?'" – Jimmy Fallon

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