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Motion to Concur in the Senate Amendments to H.R. 3961 - Extending expiring provisions of the USA PATRIOT Improvement and Reauthorization Act (*Conyers, D-MI*)

Order of Business: The Senate Amendments to H.R. 3961 are scheduled to be considered on Thursday, February 25, 2010 under a yet-to-be-reported rule. The amendments passed the Senate yesterday, February 24, 2010.

Summary: The Senate Amendments to H.R. 3961 extends three expiring provisions of the USA PATRIOT Improvement and Reauthorization Act through February 28, 2011. The three provisions are: FISA roving wiretaps (Section 206), FISA business records (Section 215), and the “lone-wolf” provision (Section 6001 of the Intelligence Reform and Terrorism Prevention Act).

Additional Background: The Defense Appropriations bill extended these provisions through February 28, 2010. They had previously been set to expire on December 31, 2009.

Section 206 permits roving FISA surveillance orders (roving wiretaps). Orders do not need to specifically identify or name individuals when targets take actions to thwart surveillance. Thus, a roving wiretap may cover multiple locations, establishments, or neighborhoods because the target is being evasive and intentionally using multiple telephones for communication (rather than a single cell phone that could be more easily wiretapped). This provision is widely referred to as a “John Doe wiretap” since it allows for a surveillance order without authorities having to name a specific person under surveillance.

Section 215 permits access to “tangible items” under FISA, including business records for hotels, motels, automobile rentals, storage facilities, library activities, internet service provider records, and other tangible items, regardless of the individual holding the item.

This provision is widely referred to as the “Library” provision since library records are included in the type of “tangible items” available under a FISA order.

Section 6001 amends the definition of an “agent of a foreign power” to include a foreign national who is preparing for or engaging in international terrorism. The modification precluded the need to show an illegal activity is being conducted on behalf of a foreign power (as long as the target is not an American).

For more information on the PATRIOT Act and these provisions, see the [RSC bulletin on the PATRIOT Act](#) from 2005.

Committee Action: On February 24, 2010, the Senate passed amendments to H.R. 3961 - Extending expiring provisions of the USA PATRIOT Improvement and Reauthorization Act. No Committee action was taken.

Administration Position: No Statement of Administration Policy is provided.

Cost to Taxpayers: No CBO score was available at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: An earmarks/revenue benefits statement required under House Rule XXI, Clause 9(a) was not available at press time.

Constitutional Authority: None is cited in the legislation, and a committee report citing constitutional authority is not available.

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