

ABOUT REID'S POTENTIAL DELAY

Folks are seeing a glimmer of hope in the FISA battle based on Harry Reid's suggestion that we might not get FISA done before the July 4 recess.

Before I look closely at what Reid said, let me lay out a few points:

- Unless something remarkable happens, FISA will eventually pass the Senate with about a 72-25 margin. The bad SSCI bill passed in February with a 68-29 margin, and Steny's capitulation was tailor-made to pick up the votes of people like DiFi and Amy Klobuchar—not to mention Obama. So there's absolutely no reason to think a filibuster would be successful or to think that the bill won't pass.
- The Senate is close to passing a Housing bill that—though imperfect—would do some concrete things to help Americans stay in their homes and help communities devastated by foreclosures. If Bush signs it. If Bush doesn't, then the Republicans will have their refusal to do something

about the foreclosure crisis to contend with this fall, along with everything else they're dealing with.

- The Senate is close to passing the equally imperfect funding supplemental which includes Webb's GI bill and an extension to unemployment benefits.

As you look at Reid's comments, remember that Reid is dealing with all **three** of these playing pieces, not just the one we're most focused on, FISA. And to the average American, the other two pieces are way more important than the FISA piece. As well-versed as I've become in FISA, frankly, I can't imagine telling my neighbors facing foreclosure that defeating immunity is more important than them keeping their house.

I'm just making an outtamyarse guess, but I'm guessing that Reid's delay comment last night may be tailored to get action on the housing bill, by holding the two things the Administration wants—FISA and the supplemental—hostage until a hold-out Republican and Bush agree to the housing compromise.

Reid starts by clearly pressuring one Senator on the housing bill—basically saying that if this one Senator doesn't flip, then the Senate will stay through the weekend and get some housing bill passed.

I know of only one holdup on our being able to complete the housing legislation. If we can't get that Senator to sign off on this, then we only have one alternative and that is we'll file cloture tomorrow on another arm of this housing legislation. We will have cloture on that two legislative days later and then we still have one

more to do. Now, that would mean we would have to be here over the weekend. Now, that was not anticipated we would do that. In the meantime, having done that, we are not going to be able to – it will hold up our being able to do FISA. We wanted to do a consent agreement on that tonight. That was – I was told that would not be possible.

He then states what I've just said—the FISA bill will eventually pass the Senate with a large majority—even while reminding that Feingold and Dodd may filibuster. Yet note that Reid also says that Feingold and Dodd—the drafter of the housing bill—know how the Senate works.

Now, Mr. President, on that, there are people who don't like the FISA legislation. Now, I recognize that the majority of the Senate does. But some people don't like it. But in spite of that, I have found the two people that speak out mostly against that – and there are others – but Senator Feingold and Senator Dodd have been very – Senator Feingold and Senator Dodd have been very diligent in their opposition to the legislation. But, of course, they understand the Senate very well. They understand the Senate very well.

This highlights that Dodd is at the center of two of Reid's three playing pieces—housing and FISA—and suggests that the filibuster may be negotiable.

Having all-but-noted that Dodd and Feingold are prepared to filibuster, Reid then concludes that the only way the Senate can proceed to FISA is with consent—that is, by convincing Dodd and Feingold not to filibuster.

And so what we would like to do is have a cloture vote on the motion to proceed to that. Well, we can't do that unless

it's by consent. So, therefore, we're going to have to do cloture on the motion to proceed to FISA at some later time. And then that only allows us to proceed to the bill. And then we still have to do cloture on the bill.

Reid then reiterates that the Senate will pass housing legislation before it breaks, even while he states that he will not keep the Senate in session to pass FISA.

Now, Mr. President, FISA is a product of the administration. It's passed the House and that's fine. But we're not going to stop people from going home for the 4th of July recess over FISA. If people don't want to do it, then we're not going to do it. It's not because we're holding it up over here, is what I'm saying. It's being held up by the minority. Now, we're going to – we're going to proceed and we're going to stay here and finish this housing bill. Mr. President, the Case-Schiller home price index registered the largest decline in home prices in that index's history. That's more than 40 years. Consumer confidence is at an all-time low. So we're going to finish the housing bill. It may knock a few people out of parades on July 4th, or whatever – however long it takes us to do this.

Note the threat: while you and I may be happy to miss the local Fourth of July parade, the Norm Colemans of the world simply can't afford to, not if they want to be re-elected this fall.

So Reid is laying out a very clear message: he will hold the Senate to get housing (a bill the Democrats want) but he won't hold the Senate to get FISA (a bill the Republicans want). And then he throws more onto the bargaining table: the military appropriations bill.

Now, the other product we have that we want to finish before we go home is the supplemental appropriation bill. Again, Mr. President, there's been a delicately crafted piece of legislation that has come from the House on this. They've worked very hard to get the House leadership to approve that, Democratic and Republican, the President of the United States has signed off on this.

Is it everything that I want? Is it everything we want over here? The answer is no. But I think, Mr. President, it's something that will pass with a very large margin over here. But we can't get to it unless people allow us to get to it. And so that, too, would have to wait until we get back after the July 4th recess. I think that would be a shame. We've been [told] that the Pentagon can pay the bills until about the middle of February. Then they're out of money.

Having laid out his terms—Reid will recess without passing FISA and the supplemental, but he won't recess without passing housing—Reid then clarifies who he is sending this message to.

Now, that — the President — I want the President, all of his people to hear what I'm saying. We are not holding up the supplemental. We, the Democrats, are not holding it up. We, the Democrats, are not holding up FISA.

Effectively, Reid is saying that Bush can't get his supplemental or his FISA until Reid gets his housing bill.

Now call me crazy. But I don't think Reid's speech was really a promise that we'll have another delay on FISA and one more chance to try to defeat immunity. I read this as Reid using FISA—a bill he knows will eventually pass, but

one that has great support for a filibuster—to get what he needs on housing. Bush can have his supplemental and FISA so long as the one Republican hold-out on housing flips, and so long as Bush agrees to the housing bill (goddamn, I hope that Reid has determined to hold up FISA and the supplemental until he gets Bush's signature on housing). It sounds like he has even secured agreement from Dodd (the author of the housing compromise) and Feingold not to filibuster if the Senate can push through the housing bill.

So I'm not holding out great hope that we'll get a reprieve on FISA. Rather, I'm guessing this means Reid is holding the supplemental and FISA hostage to get the housing bill passed.