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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
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April 16, 2015

The Honorable Patrick Leahy
United States Senate
Washington, D.C. 20510

The Honorable Richard Durbin
United States Senate
Washington, D.C. 20510

The Honorable Amy Klobuchar
United States Senate
Washington, D.C. 20510

The Honorable Chris Coons
United States Senate
Washington, D.C. 20510

The Honorable Charles Schumer
United States Senate
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
United States Senate
Washington, D.C. 20510

The Honorable Al Franken
United States Senate
Washington, D.C. 20510

The Honorable Richard Blumenthal
United States Senate
Washington, D.C. 20510

Dear Senators Leahy, Schumer, Durbin, Whitehouse, Klobuchar, Franken, Coons and Blumenthal:

This responds to your letter dated March 26, 2015, which urged me to seek a sequential referral of S. 754, the Cybersecurity Information Sharing Act of 2015. While Senate rules provide for sequential referral, I join with the other relevant committees of jurisdiction—Armed Services, Banking, Commerce, Energy, and Homeland Security and Governmental Affairs—in declining to seek sequential referral of this bill. I am comfortable that the process surrounding the negotiation and introduction of S. 754 has afforded ample opportunity for the appropriate committees of jurisdiction to discuss their priorities and concerns.

As you well know, the Senate has labored for several years to craft legislation to strengthen the Nation's cybersecurity needs. During this time, the Judiciary Committee has worked actively on many cybersecurity matters and will continue to do so under my leadership. In addition, I expect the Judiciary Committee to remain engaged with the other committees sharing jurisdiction over various cybersecurity components as part of the process established in the 112th Congress to minimize potential committee jurisdictional challenges on this topic.

In the 112th Congress, then-Majority Leader Reid recognized that broad cybersecurity legislation would include numerous provisions touching on the jurisdiction of several committees. Accordingly, he called on the relevant committees to work together across committee jurisdictions to develop comprehensive cybersecurity legislation. This approach was an attempt to safeguard committee jurisdiction, while providing a possible path forward on cybersecurity legislation, and to eliminate the scenario where a bill, having received no committee consideration and process of any kind, is brought to the Senate floor outside of regular order. I appreciate this past arrangement, and it helps guide me in my decision to not seek a sequential referral of S. 754.

Furthermore, my decision is squarely within Judiciary Committee precedent. In your letter to me, you note “the bill contains a number of provisions that affect matters squarely within the jurisdiction of the Judiciary Committee.” Specifically, the letter refers to the liability protection afforded to private companies that share information with the government, which could impact the privacy protections found in other laws; the government’s authorization to use the information received for criminal justice purposes; and the creation of a new Freedom of Information Act exemption for information shared with the government. These provisions contained in S. 754 are almost identical to provisions that were included in S. 2588, the Cybersecurity Information Sharing Act of 2014, which the Intelligence Committee reported in the 113th Congress on July 10, 2014. The fact that the Judiciary Committee, under Democratic control, did not seek a sequential referral of S. 2588 last Congress helps to inform my decision today, and offers me assurance this is the correct conclusion and one that will not threaten the “historic jurisdiction of this committee[.]”

As Chairman, I strive to maintain the Judiciary Committee’s leadership role on cybersecurity matters. Currently, for example, I want the Judiciary Committee to craft legislation establishing a uniform data breach notification standard, something I hope to achieve given the progress made last year. Likewise, I recognize there are other proposals related to cybersecurity that the Committee will consider this Congress, and I look forward to working with all Committee members to address the threat posed by cyber criminals to our national and economic security.

In light of the process surrounding the introduction of S. 754, coupled with the assurances I am given that the bill will be considered under regular order—unlike what was afforded under the former Democratic leadership—with Senators provided the opportunity to engage in a robust and open amendment process, it is my determination that a sequential referral of the bill to the Judiciary Committee is not necessary.

Sincerely,


Charles E. Grassley
Chairman