



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, THURSDAY, MAY 10, 2007

No. 77—Part II

## House of Representatives

PROVIDING FOR CONSIDERATION OF H.R. 2082, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2008—Continued

□ 1430

Mr. HASTINGS of Washington. Let me say, then, Mr. Speaker, I will be asking for my colleagues to defeat the previous question so we will have an opportunity to vote on the merits of this amendment.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous material immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 6 minutes to the ranking member of the Intelligence Committee (Mr. HOEKSTRA).

Mr. HOEKSTRA. I thank the gentleman for yielding.

Mr. Speaker, I just need to clarify that the process that was used for the earmarks on this bill did not follow all of the rules that we had agreed upon in the committee and perhaps inconsistent with the Rules of the House. But I do know that they were inconsistent with the agreement that we have in the Intelligence Committee, which is that on a bipartisan basis the chairman and the ranking member would review earmarks, their content, the Member, and would sign off on the appropriateness of each of those earmarks.

With the filing of the bill to the Rules Committee, there was at least one earmark that was never brought to my attention and for which I never received a copy of the request from the Member identifying the earmark or a statement from the Member indicating that there was no financial interest along with the earmark. Now, that

does not say the earmark is bad. It does not say it was wrong. It is just a process foul in terms of what we had agreed to.

Mr. REYES. Will the gentleman yield?

Mr. HOEKSTRA. I yield to the chairman.

Mr. REYES. I thank you for yielding, because one of the fundamental points I want to make is that we wanted to err on the side of transparency. Staff tells me that the issue of that particular earmark, weeks before we marked up the bill, was fully discussed on a bipartisan basis. I know it was discussed when we marked it up because there were a number of amendments that were brought to the markup.

Mr. HOEKSTRA. It is clear that there may be some confusion as to exactly what was or what was not discussed, but the process between staff, the process that is outlined in the committee is clearly that the chairman and the ranking member will go through and review those items that are identified as earmarks, and we will agree on them, and we will agree upon their inclusion in the bill.

The bill that was submitted and filed with Rules had at least one, I don't know about the full details, but had at least one earmark that the chairman and myself never discussed and also that, as a ranking member, I had never received what would have been identified as the paperwork that went along with it. The chairman knows that that particular earmark was one that was not discussed as an earmark. I don't think the inclusion and the identification of it as being an earmark in committee when we debated this specific provision was brought up.

And so it is a cause of concern. And building on what happened with my colleague from Arizona (Mr. FLAKE), where the Rules Committee did not identify the earmarks that were part of that bill until 5 hours after the dead-

line for the Rules Committee, for Members to submit amendments.

Mr. REYES. Will the gentleman yield?

Mr. HOEKSTRA. I will yield.

Mr. REYES. Those are two different issues. The time was an issue of Government Printing Office error. That is a different issue.

I would just hope that my good friend and colleague and ranking member would agree that we sat down and agreed to bring transparency so that the issues that came up when the gentleman was the chair of the committee would not recur.

Mr. HOEKSTRA. That is exactly the point, that whatever abuses, whatever we wanted transparency, these were guidelines and rules that we agreed upon in the previous Congress, where I am glad that they were carried over into this Congress. I am disappointed that they were not followed the way that they were outlined in the committee process.

Mr. REYES. If the gentleman would yield.

Mr. HOEKSTRA. I will yield.

Mr. REYES. I would just again take issue with that point because we followed the process. Staff consulted on a bipartisan basis.

Mr. HOEKSTRA. Reclaiming my time.

Mr. Chairman, no, that does not follow. The measure that we had, you and I sat in a conference room; we went through the list with staff discussing specifically each and every earmark. And that earmark was not part of that process. When we got the report that accompanied this bill to the Rules Committee, all of a sudden there was a new earmark that you and I had not gone through. You can talk to staff and those types of things. I was never aware and neither were they that it was an earmark.

Mr. HASTINGS of Washington. Mr. Speaker, I am going to once again urge

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H4787

my colleagues to vote "no" on the previous question so the House can consider the amendment that I submitted from Heather Wilson of New Mexico.

Mr. Speaker, with that, I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remaining portion of my time.

I am fascinated by my colleagues' arguments on the other side. We did have a Rules Committee hearing on this matter, and there are four members of the Rules Committee on the minority, none of whom raised any of the issues that we have heard here today on the floor; understanding full well that Mr. FLAKE comes now and says that we should have a special session.

I also know that here on the floor I offered to Mr. FLAKE an opportunity, by unanimous consent, to offer any amendment he may have, and he didn't have an amendment at that time. I assume his argument is that we would need to be in what he says a "secret session."

But one thing I do know, being one of the few Members that does serve on the Rules Committee and on the Intelligence Committee, and that is that everyone knew the funding level of the issue that is being discussed. Mr. FLAKE may not have, but I can assure you that the remaining Members on the Intelligence Committee knew that the mark was included in our draft and the Community Management Account making that minority staff certainly aware at the time between the chairman and Mr. HOEKSTRA.

Now, today more than ever, we must make the creation of a strong and flexible intelligence apparatus one of the highest, highest priorities of this body. The terrorist attacks of September 11, combined with the continuing threat of further attacks, underscore the importance of this legislation.

When the American people elected Democrats to the majority, they sent a very clear message that "business as usual" is no longer accepted. They said to all of us, Republican and Democrat alike, that there are problems in the way we operate, and we need to change how we do business. We must, in my opinion, congratulate our intelligence community for its successes, but we also must hold them accountable for their failures. Rubber-stamping the administration's every action is not acceptable. Democrats are working every day, as are Republicans, to make America a safer place for all.

I genuinely urge my colleagues to support this measure.

I heard arguments about the climate change requirements put forward for there to be a national intelligence estimate in that regard. And there are arguments against it. I do not quite understand those arguments. We made it clear that much of the information is collectable by analysts at this time and that it would help prevent future terrorist developments. And the way

the argument has been couched on the minority is as if this largest ever intelligence budget, largest in the history of the Congress, is not doing everything that is needed to be done because someone requested that there be a national intelligence estimate with reference to climate change. One day, some people in this body are going to get their head out of the sand and understand that something is changing in this climate of ours, in this world and that we all owe it as much as we can afford to make sure that we pass on a safe environment to all our children.

With that, Mr. Speaker, I urge my colleagues to support the rule. I urge a "yes" vote on the previous question.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

#### AMENDMENT TO H. RES. 388

OFFERED BY REP. HASTINGS OF WASHINGTON

At the end of the resolution, add the following:

Sec. 3. Notwithstanding any other provision of this resolution, the amendment printed in section 4 shall be in order as though printed as the last amendment in the report of the Committee on Rules if offered by Representative Wilson of New Mexico or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

Sec. 4. The amendment referred to in section 3 is as follows:

At the end of the bill, add the following new title:

#### TITLE VI—ELECTRONIC SURVEILLANCE MODERNIZATION

##### SEC. 601. SHORT TITLE.

This title may be cited as the "Electronic Surveillance Modernization Act".

##### SEC. 602. FISA DEFINITIONS.

(a) AGENT OF A FOREIGN POWER.—Subsection (b)(1) of section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended—

(1) in subparagraph (B), by striking "; or" and inserting ";"; and

(2) by adding at the end the following:

"(D) is reasonably expected to possess, control, transmit, or receive foreign intelligence information while such person is in the United States, provided that the official making the certification required by section 104(a)(7) deems such foreign intelligence information to be significant; or".

(b) ELECTRONIC SURVEILLANCE.—Subsection (f) of such section is amended to read as follows:

"(f) 'Electronic surveillance' means—

"(1) the installation or use of an electronic, mechanical, or other surveillance device for acquiring information by intentionally directing surveillance at a particular known person who is reasonably believed to be in the United States under circumstances in which that person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes; or

"(2) the intentional acquisition of the contents of any communication under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, if both the sender and all intended recipients are reasonably believed to be located within the United States.".

(c) MINIMIZATION PROCEDURES.—Subsection (h) of such section is amended—

(1) in paragraph (2), by striking "importance;" and inserting "importance; and";

(2) in paragraph (3), by striking "; and" and inserting "."; and

(3) by striking paragraph (4).

(d) WIRE COMMUNICATION AND SURVEILLANCE DEVICE.—Subsection (1) of such section is amended to read as follows:

"(1) 'Surveillance device' is a device that allows surveillance by the Federal Government, but excludes any device that extracts or analyzes information from data that has already been acquired by the Federal Government by lawful means."

(e) CONTENTS.—Subsection (n) of such section is amended to read as follows:

"(n) 'Contents', when used with respect to a communication, includes any information concerning the substance, purport, or meaning of that communication."

#### SEC. 603. AUTHORIZATION FOR ELECTRONIC SURVEILLANCE AND OTHER ACQUISITIONS FOR FOREIGN INTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended by striking section 102 and inserting the following:

"AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

"SEC. 102. (a) IN GENERAL.—Notwithstanding any other law, the President, acting through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

"(1) the electronic surveillance is directed at—

"(A) the acquisition of the contents of communications of foreign powers, as defined in paragraph (1), (2), or (3) of section 101(a), or an agent of a foreign power, as defined in subparagraph (A) or (B) of section 101(b)(1); or

"(B) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a); and

"(2) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h);

if the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days prior to the effective date of such minimization procedures, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

"(b) MINIMIZATION PROCEDURES.—An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 108(a).

"(c) SUBMISSION OF CERTIFICATION.—The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless—

“(1) an application for a court order with respect to the surveillance is made under section 104; or

“(2) the certification is necessary to determine the legality of the surveillance under section 106(f).

“AUTHORIZATION FOR ACQUISITION OF FOREIGN INTELLIGENCE INFORMATION

“SEC. 102A. (a) IN GENERAL.—Notwithstanding any other law, the President, acting through the Attorney General may, for periods of up to one year, authorize the acquisition of foreign intelligence information concerning a person reasonably believed to be outside the United States if the Attorney General certifies in writing under oath that—

“(1) the acquisition does not constitute electronic surveillance;

“(2) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a wire or electronic communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to wire or electronic communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

“(3) a significant purpose of the acquisition is to obtain foreign intelligence information; and

“(4) the proposed minimization procedures with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

“(b) SPECIFIC PLACE NOT REQUIRED.—A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

“(c) SUBMISSION OF CERTIFICATION.—The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 102B.

“(d) MINIMIZATION PROCEDURES.—An acquisition under this section may be conducted only in accordance with the certification of the Attorney General and the minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

“DIRECTIVES RELATING TO ELECTRONIC SURVEILLANCE AND OTHER ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION

“SEC. 102B. (a) DIRECTIVE.—With respect to an authorization of electronic surveillance under section 102 or an authorization of an acquisition under section 102A, the Attorney General may direct a person to—

“(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition of foreign intelligence information in such a manner as will protect the secrecy of the electronic surveillance or acquisition and produce a minimum of interference with the services that such person is providing to the target; and

“(2) maintain under security procedures approved by the Attorney General and the

Director of National Intelligence any records concerning the electronic surveillance or acquisition or the aid furnished that such person wishes to maintain.

“(b) COMPENSATION.—The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (a).

“(c) FAILURE TO COMPLY.—In the case of a failure to comply with a directive issued pursuant to subsection (a), the Attorney General may petition the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person or entity to comply with the directive if it finds that the directive was issued in accordance with section 102(a) or 102A(a) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person or entity may be found.

“(d) REVIEW OF PETITIONS.—(1) IN GENERAL.—(A) CHALLENGE.—A person receiving a directive issued pursuant to subsection (a) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

“(B) ASSIGNMENT OF JUDGE.—The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 24 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

“(2) STANDARD OF REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall affirm such directive, and order the recipient to comply with such directive.

“(3) DIRECTIVES NOT MODIFIED.—Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

“(e) APPEALS.—The Government or a person receiving a directive reviewed pursuant to subsection (d) may file a petition with the court of review established under section 103(b) for review of the decision issued pursuant to subsection (d) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition by the Government or any person receiving such directive for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

“(f) PROCEEDINGS.—Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

“(g) SEALED PETITIONS.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

“(h) LIABILITY.—No cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

“(i) USE OF INFORMATION.—Information acquired pursuant to a directive by the Attorney General under this section concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by section 102(a) or 102A(a). No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this section shall lose its privileged character. No information from an electronic surveillance under section 102 or an acquisition pursuant to section 102A may be used or disclosed by Federal officers or employees except for lawful purposes.

“(j) USE IN LAW ENFORCEMENT.—No information acquired pursuant to this section shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived from such information, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

“(k) DISCLOSURE IN TRIAL.—If the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance conducted under section 102 or an acquisition authorized pursuant to section 102A, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to disclose or use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to disclose or use such information.

“(l) DISCLOSURE IN STATE TRIALS.—If a State or political subdivision of a State intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision of a State, against an aggrieved person, any information obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A, the State or political subdivision of such State shall notify the aggrieved person, the court, or other authority in which the information is to be disclosed or used and the Attorney General that the State or political subdivision intends to disclose or use such information.

“(m) MOTION TO EXCLUDE EVIDENCE.—(1) IN GENERAL.—Any person against whom evidence obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A is to be, or has been, used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to

suppress the evidence obtained or derived from such electronic surveillance or such acquisition on the grounds that—

“(A) the information was unlawfully acquired; or

“(B) the electronic surveillance or acquisition was not properly made in conformity with an authorization under section 102(a) or 102A(a).

“(2) TIMING.—A person moving to suppress evidence under paragraph (1) shall make the motion to suppress the evidence before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

“(n) REVIEW OF MOTIONS.—If a court or other authority is notified pursuant to subsection (k) or (l), a motion is made pursuant to subsection (m), or a motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State—

“(1) to discover or obtain an Attorney General directive or other materials relating to an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A, or

“(2) to discover, obtain, or suppress evidence or information obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A,

the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to such electronic surveillance or such acquisition as may be necessary to determine whether such electronic surveillance or such acquisition authorized under this section was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the directive or other materials relating to the acquisition only where such disclosure is necessary to make an accurate determination of the legality of the acquisition.

“(o) DETERMINATIONS.—If, pursuant to subsection (n), a United States district court determines that the acquisition authorized under this section was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived or otherwise grant the motion of the aggrieved person. If the court determines that such acquisition was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

“(p) BINDING ORDERS.—Orders granting motions or requests under subsection (m), decisions under this section that an electronic surveillance or an acquisition was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of directives, orders, or other materials relating to such acquisition shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

“(q) COORDINATION.—(1) IN GENERAL.—Federal officers who acquire foreign intelligence information may consult with Federal law

enforcement officers or law enforcement personnel of a State or political subdivision of a State, including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision, to coordinate efforts to investigate or protect against—

“(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(B) sabotage, international terrorism, or the development or proliferation of weapons of mass destruction by a foreign power or an agent of a foreign power; or

“(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

“(2) CERTIFICATION REQUIRED.—Coordination authorized under paragraph (1) shall not preclude the certification required by section 102(a) or 102A(a).

“(r) RETENTION OF DIRECTIVES AND ORDERS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.”

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 102 the following:

“102A. Authorization for acquisition of foreign intelligence information.

“102B. Directives relating to electronic surveillance and other acquisitions of foreign intelligence information.”

#### SEC. 604. JURISDICTION OF FISA COURT.

Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

“(g) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under this section, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.”

#### SEC. 605. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “detailed description” and inserting “summary description”;

(B) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking “or officials designated” and all that follows through “consent of the Senate” and inserting “designated by the President to authorize electronic surveillance for foreign intelligence purposes”;

(ii) in subparagraph (C), by striking “techniques;” and inserting “techniques; and”;

(iii) by striking subparagraph (D); and

(iv) by redesignating subparagraph (E) as subparagraph (D);

(C) in paragraph (8), by striking “a statement of the means” and inserting “a summary statement of the means”;

(D) in paragraph (9)—

(i) by striking “a statement” and inserting “a summary statement”; and

(ii) by striking “application;” and inserting “application; and”;

(E) in paragraph (10), by striking “thereafter; and” and inserting “thereafter.”; and

(F) by striking paragraph (11).

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3), by striking “or the Director of National Intelligence” and inserting “the Director of National Intelligence, or the Director of the Central Intelligence Agency”.

#### SEC. 606. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (c)(1)—

(A) in subparagraph (D), by striking “surveillance;” and inserting “surveillance; and”;

(B) in subparagraph (E), by striking “approved; and” and inserting “approved.”; and

(C) by striking subparagraph (F);

(3) by striking subsection (d);

(4) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(5) in subsection (d), as redesignated by paragraph (4), by amending paragraph (2) to read as follows:

“(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order and may be for a period not to exceed one year.”;

(6) in subsection (e), as redesignated by paragraph (4), to read as follows:

“(e) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

“(1) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained;

“(2) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

“(3) informs a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

“(4) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not more than 168 hours after the Attorney General authorizes such surveillance.

If the Attorney General authorizes such emergency employment of electronic surveillance, the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department,

office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.”

(7) in subsection (h), as redesignated by paragraph (4)—

(A) by striking “a wire or” and inserting “an”; and

(B) by striking “physical search” and inserting “physical search or in response to a certification by the Attorney General or a designee of the Attorney General seeking information, facilities, or technical assistance from such person under section 102B”; and

(8) by adding at the end the following new subsection:

“(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, the judge shall also authorize the installation and use of pen registers and trap and trace devices to acquire dialing, routing, addressing, and signaling information related to such communications and such dialing, routing, addressing, and signaling information shall not be subject to minimization procedures.”

#### SEC. 607. USE OF INFORMATION.

Section 106(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(i)) is amended—

(1) by striking “radio communication” and inserting “communication”; and

(2) by striking “contents indicates” and inserting “contents contain significant foreign intelligence information or indicate”.

#### SEC. 608. CONGRESSIONAL OVERSIGHT.

(a) ELECTRONIC SURVEILLANCE UNDER FISA.—Section 108 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) the authority under which the electronic surveillance is conducted.”; and

(2) by striking subsection (b) and inserting the following:

“(b) On a semiannual basis, the Attorney General additionally shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on electronic surveillance conducted without a court order.”

(b) INTELLIGENCE ACTIVITIES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) in section 501 (50 U.S.C. 413)—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

“(f) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

“(1) on a bipartisan basis, all members or any individual members of such committee, and

“(2) any essential staff of such committee,

of a report submitted under subsection (a)(1) or subsection (b) as such Chair considers necessary.”;

(2) in section 502 (50 U.S.C. 414), by adding at the end the following new subsection:

“(d) INFORMING OF COMMITTEE MEMBERS.—The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

“(1) on a bipartisan basis, all members or any individual members of such committee, and

“(2) any essential staff of such committee, of a report submitted under subsection (a) as such Chair considers necessary.”; and

(3) in section 503 (50 U.S.C. 415), by adding at the end the following new subsection:

“(g) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

“(1) on a bipartisan basis, all members or any individual members of such committee, and

“(2) any essential staff of such committee, of a report submitted under subsection (b), (c), or (d) as such Chair considers necessary.”

#### SEC. 609. INTERNATIONAL MOVEMENT OF TARGETS.

(a) ELECTRONIC SURVEILLANCE.—Section 105(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)), as redesignated by section 606(4), is amended by adding at the end the following new paragraph:

“(4) An order issued under this section shall remain in force during the authorized period of surveillance notwithstanding the absence of the target from the United States, unless the Government files a motion to extinguish the order and the court grants the motion.”

(b) PHYSICAL SEARCH.—Section 304(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)) is amended by adding at the end the following new paragraph:

“(4) An order issued under this section shall remain in force during the authorized period of surveillance notwithstanding the absence of the target from the United States, unless the Government files a motion to extinguish the order and the court grants the motion.”

#### SEC. 610. COMPLIANCE WITH COURT ORDERS AND ANTITERRORISM PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and in addition to the immunities, privileges, and defenses provided by any other provision of law, no action, claim, or proceeding shall lie or be maintained in any court, and no penalty, sanction, or other form of remedy or relief shall be imposed by any court or any other body, against any person for an activity arising from or relating to the provision to an element of the intelligence community of any information (including records or other information pertaining to a customer), facilities, or assistance during the period of time beginning on September 11, 2001, and ending on the date that is 60 days after the date of the enactment of this Act, in connection with any alleged communications intelligence program that the Attorney General or a designee of the Attorney General certifies, in a manner consistent with the protection of State secrets, is, was, or would be intended to protect the United States from a terrorist attack. This section shall apply to all actions, claims, or proceedings pending on or after the effective date of this Act.

(b) JURISDICTION.—Any action, claim, or proceeding described in subsection (a) that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable pursu-

ant to section 1441 of title 28, United States Code.

(c) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) PERSON.—The term “person” has the meaning given the term in section 2510(6) of title 18, United States Code.

#### SEC. 611. REPORT ON MINIMIZATION PROCEDURES.

(a) REPORT.—Not later than two years after the date of the enactment of this Act, and annually thereafter until December 31, 2012, the Director of the National Security Agency, in consultation with the Director of National Intelligence and the Attorney General, shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and use of minimization procedures applied to information concerning United States persons acquired during the course of a communications activity conducted by the National Security Agency.

(b) REQUIREMENTS.—A report submitted under subsection (a) shall include—

(1) a description of the implementation, during the course of communications intelligence activities conducted by the National Security Agency, of procedures established to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning United States persons;

(2) the number of significant violations, if any, of such minimization procedures during the 18 months following the effective date of this Act; and

(3) summary descriptions of such violations.

(c) RETENTION OF INFORMATION.—Information concerning United States persons shall not be retained solely for the purpose of complying with the reporting requirements of this section.

#### SEC. 612. AUTHORIZATION OF ELECTRONIC SURVEILLANCE DUE TO IMMINENT THREAT.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) by adding at the end of title I the following new section:

“AUTHORIZATION DUE TO IMMINENT THREAT

“SEC. 113. (a) IN GENERAL.—Notwithstanding any other provision of law, but subject to the provisions of this section, the President, acting through the Attorney General, may authorize electronic surveillance without an order under this title to acquire foreign intelligence information for a period not to exceed 90 days if the President submits to the congressional leadership, the congressional intelligence committees, and the Foreign Intelligence Surveillance Court a written notification that the President has determined that there exists an imminent threat of attack likely to cause death, serious injury, or substantial economic damage to the United States. Such notification—

“(1) shall be submitted as soon as practicable, but in no case later than 5 days after the date on which the President authorizes electronic surveillance under this section;

“(2) shall specify the entity responsible for the threat and any affiliates of the entity;

“(3) shall state the reason to believe that the threat of imminent attack exists;

“(4) shall state the reason the President needs broader authority to conduct electronic surveillance in the United States as a result of the threat of imminent attack;

“(5) shall include a description of the foreign intelligence information that will be collected and the means that will be used to

collect such foreign intelligence information; and

“(6) may be submitted in classified form.

“(b) **SUBSEQUENT CERTIFICATIONS.**—At the end of the 90-day period described in subsection (a), and every 90 days thereafter, the President may submit a subsequent written notification to the congressional leadership, the congressional intelligence committees, the other relevant committees, and the Foreign Intelligence Surveillance Court that the circumstances of the threat for which the President submitted a written notification under subsection (a) require the President to continue the authorization of electronic surveillance under this section for an additional 90 days. The President shall be authorized to conduct electronic surveillance under this section for an additional 90 days after each such subsequent written notification.

“(c) **ELECTRONIC SURVEILLANCE OF INDIVIDUALS.**—The President, or an official designated by the President to authorize electronic surveillance, may only conduct electronic surveillance of a person under this section if the President or such official determines that—

“(1) there is a reasonable belief that such person is communicating with an entity or an affiliate of an entity that is reasonably believed to be responsible for imminent threat of attack; and

“(2) the information obtained from the electronic surveillance may be foreign intelligence information.

“(d) **MINIMIZATION PROCEDURES.**—The President may not authorize electronic surveillance under this section until the Attorney General approves minimization procedures for electronic surveillance conducted under this section.

“(e) **UNITED STATES PERSONS.**—Notwithstanding subsections (a) and (b), the President may not authorize electronic surveillance of a United States person under this section without an order under this title for a period of more than 60 days unless the President, acting through the Attorney General, submits a certification to the congressional intelligence committees that—

“(1) the continued electronic surveillance of the United States person is vital to the national security of the United States;

“(2) describes the circumstances that have prevented the Attorney General from obtaining an order under this title for continued surveillance;

“(3) describes the reasons for believing the United States person is affiliated with or in communication with an entity or an affiliate of an entity that is reasonably believed to be responsible for imminent threat of attack; and

“(4) describes the foreign intelligence information derived from the electronic surveillance conducted under this section.

“(f) **USE OF INFORMATION.**—Information obtained pursuant to electronic surveillance under this subsection may be used to obtain an order authorizing subsequent electronic surveillance under this title.

“(g) **DEFINITIONS.**—In this section:

“(1) **CONGRESSIONAL INTELLIGENCE COMMITTEES.**—The term ‘congressional intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) **CONGRESSIONAL LEADERSHIP.**—The term ‘congressional leadership’ means the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate.

“(3) **FOREIGN INTELLIGENCE SURVEILLANCE COURT.**—The term ‘Foreign Intelligence Surveillance Court’ means the court established under section 103(a).

“(4) **OTHER RELEVANT COMMITTEES.**—The term ‘other relevant committees’ means the

Committees on Appropriations, the Committees on Armed Services, and the Committees on the Judiciary of the House of Representatives and the Senate.”; and

(2) in the table of contents in the first section, by inserting after the item relating to section 111 the following new item:

“Sec. 112. Authorization due to imminent threat.”.

**SEC. 613. TECHNICAL AND CONFORMING AMENDMENTS.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) in section 105(a)(4), as redesignated by section 606(1)(B)—

(A) by striking “104(a)(7)(E)” and inserting “104(a)(7)(D)”;

(B) by striking “104(d)” and inserting “104(c)”;

(2) in section 106(j), in the matter preceding paragraph (1), by striking “105(e)” and inserting “105(d)”;

(3) in section 108(a)(2)(C), by striking “105(f)” and inserting “105(e)”.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

**THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS**

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

Because the vote today may look bad for the Democratic majority they will say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's “American Congressional Dictionary”: “If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.”

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled

“Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken, and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting House Resolution 388, if ordered; ordering the previous question on House Resolution 387; and adopting House Resolution 387, if ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 199, not voting 10, as follows:

[Roll No. 324]

YEAS—223

Abercrombie	Cleaver	Gonzalez
Ackerman	Clyburn	Gordon
Allen	Cohen	Green, Al
Altmire	Conyers	Green, Gene
Andrews	Cooper	Grijalva
Arcuri	Costa	Gutierrez
Baca	Costello	Hall (NY)
Baird	Courtney	Hare
Baldwin	Cramer	Harman
Bean	Crowley	Hastings (FL)
Becerra	Cuellar	Herseth Sandlin
Berkley	Cummings	Higgins
Berman	Davis (AL)	Hill
Berry	Davis (CA)	Hinchey
Bishop (GA)	Davis (IL)	Hinojosa
Bishop (NY)	Davis, Lincoln	Hirono
Blumenauer	DeFazio	Hodes
Boren	DeGette	Holden
Boswell	Delahunt	Holt
Boucher	DeLauro	Honda
Boyd (FL)	Dicks	Hooley
Boyd (KS)	Dingell	Hoyer
Braley (IA)	Doggett	Inlee
Brown, Corrine	Donnelly	Israel
Butterfield	Doyle	Jackson (IL)
Capps	Edwards	Jackson-Lee
Capuano	Ellison	(TX)
Cardoza	Ellsworth	Jefferson
Carnahan	Emanuel	Johnson (GA)
Carney	Eshoo	Johnson, E. B.
Carson	Etheridge	Jones (OH)
Castor	Farr	Kagen
Chandler	Filmer	Kanjorski
Clarke	Giffords	Kaptur
Clay	Gillibrand	Kennedy

Kildee  
 Kilpatrick  
 Kind  
 Klein (FL)  
 Kucinich  
 Lampson  
 Langevin  
 Lantos  
 Larsen (WA)  
 Larson (CT)  
 Lee  
 Levin  
 Lewis (GA)  
 Lipinski  
 Loebsock  
 Lofgren, Zoe  
 Lowey  
 Lynch  
 Mahoney (FL)  
 Maloney (NY)  
 Markey  
 Marshall  
 Matheson  
 Matsui  
 McCarthy (NY)  
 McCollum (MN)  
 McDermott  
 McGovern  
 McIntyre  
 McNerney  
 McNulty  
 Meehan  
 Meek (FL)  
 Meeks (NY)  
 Melancon  
 Michaud  
 Miller (NC)  
 Miller, George  
 Mitchell  
 Mollohan  
 Moore (KS)

Moore (WI)  
 Moran (VA)  
 Murphy (CT)  
 Murphy, Patrick  
 Murtha  
 Nadler  
 Napolitano  
 Neal (MA)  
 Oberstar  
 Obey  
 Olver  
 Ortiz  
 Pallone  
 Pascrell  
 Pastor  
 Payne  
 Perlmutter  
 Peterson (MN)  
 Pomeroy  
 Price (NC)  
 Rahall  
 Reyes  
 Rodriguez  
 Ross  
 Rothman  
 Roybal-Allard  
 Ruppertsberger  
 Rush  
 Ryan (OH)  
 Salazar  
 Sanchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Sestak

Shea-Porter  
 Sherman  
 Shuler  
 Sires  
 Skelton  
 Slaughter  
 Smith (WA)  
 Snyder  
 Solis  
 Space  
 Spratt  
 Stark  
 Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Towns  
 Udall (CO)  
 Udall (NM)  
 Van Hollen  
 Velázquez  
 Vislosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wexler  
 Wilson (OH)  
 Woolsey  
 Wu  
 Wynn  
 Yarmuth

Sensenbrenner  
 Sessions  
 Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Stearns

Sullivan  
 Tancredo  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)

Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield  
 Wicker  
 Wilson (NM)  
 Wilson (SC)  
 Wolf  
 Young (AK)  
 Young (FL)

Miller, George  
 Mitchell  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (VA)  
 Murphy (CT)  
 Murphy, Patrick  
 Murtha  
 Nadler  
 Napolitano  
 Neal (MA)  
 Oberstar  
 Obey  
 Olver  
 Ortiz  
 Pallone  
 Pascrell  
 Pastor  
 Payne  
 Perlmutter  
 Peterson (MN)  
 Pomeroy  
 Price (NC)  
 Rahall  
 Rangel  
 Reyes  
 Rodriguez  
 Ross

Rothman  
 Roybal-Allard  
 Ruppertsberger  
 Rush  
 Ryan (OH)  
 Salazar  
 Sanchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Serrano  
 Sestak  
 Shea-Porter  
 Sherman  
 Shuler  
 Sires  
 Skelton  
 Slaughter  
 Smith (WA)  
 Snyder  
 Solis  
 Space  
 Spratt  
 Stark

Stupak  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Towns  
 Udall (CO)  
 Udall (NM)  
 Van Hollen  
 Velázquez  
 Vislosky  
 Walz (MN)  
 Wasserman  
 Schultz  
 Watt  
 Waxman  
 Weiner  
 Welch (VT)  
 Wexler  
 Wilson (OH)  
 Woolsey  
 Wu  
 Wynn  
 Yarmuth

NOT VOTING—10

Brady (PA)  
 Engel  
 Fattah  
 Frank (MA)

McCrery  
 McMorris  
 Rodgers  
 Rangel

Souder  
 Waters  
 Watson

□ 1506

Mrs. CUBIN changed her vote from “yea” to “nay.”

Mr. CONYERS and Mr. RUSH changed their vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered. The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 226, noes 198, not voting 8, as follows:

[Roll No. 325]

AYES—226

Aderholt  
 Akin  
 Alexander  
 Bachmann  
 Bachus  
 Baker  
 Barrett (SC)  
 Barrow  
 Bartlett (MD)  
 Barton (TX)  
 Biggert  
 Bilbray  
 Bilirakis  
 Bishop (UT)  
 Blackburn  
 Blunt  
 Boehner  
 Bonner  
 Bono  
 Boozman  
 Boustany  
 Brady (TX)  
 Brown (SC)  
 Brown-Waite,  
 Ginny  
 Buchanan  
 Burgess  
 Burton (IN)  
 Buyer  
 Calvert  
 Camp (MI)  
 Campbell (CA)  
 Cannon  
 Cantor  
 Capito  
 Carter  
 Castle  
 Chabot  
 Coble  
 Cole (OK)  
 Conaway  
 Crenshaw  
 Cubin  
 Culberson  
 Davis (KY)  
 Davis, David  
 Davis, Jo Ann  
 Davis, Tom  
 Deal (GA)  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Doolittle  
 Drake  
 Dreier  
 Duncan

Lewis (KY)  
 Linder  
 LoBiondo  
 Lucas  
 Lungren, Daniel  
 E.  
 Mack  
 Manzullo  
 Marchant  
 McCarthy (CA)  
 McCaul (TX)  
 McCotter  
 McHenry  
 McHugh  
 McKeon  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Moran (KS)  
 Murphy, Tim  
 Musgrave  
 Myrick  
 Neugebauer  
 Nunes  
 Paul  
 Pearce  
 Pence  
 Peterson (PA)  
 Petri  
 Pickering  
 Pitts  
 Platts  
 Poe  
 Porter  
 Price (GA)  
 Pryce (OH)  
 Putnam  
 Radanovich  
 Ramstad  
 Regula  
 Rehberg  
 Reichert  
 Renzi  
 Reynolds  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Royce  
 Ryan (WI)  
 Sali  
 Saxton  
 Schmidt

Abercrombie  
 Ackerman  
 Allen  
 Altmire  
 Andrews  
 Arcuri  
 Baca  
 Baird  
 Baldwin  
 Barrow  
 Bean  
 Becerra  
 Berkeley  
 Berman  
 Berry  
 Bishop (GA)  
 Bishop (NY)  
 Emanuel  
 Blumenauer  
 Boren  
 Boswell  
 Boucher  
 Boyd (FL)  
 Boyda (KS)  
 Braley (IA)  
 Brown, Corrine  
 Butterfield  
 Capps  
 Capuano  
 Cardoza  
 Carnahan  
 Carney  
 Carson  
 Castor  
 Chandler  
 Clarke  
 Clay  
 Cleaver  
 Clyburn  
 Cohen  
 Conyers  
 Cooper  
 Costa  
 Costello  
 Courtney  
 Cramer  
 Crowley  
 Cuellar  
 Cummings

Davis (AL)  
 Davis (CA)  
 Davis (IL)  
 Davis, Lincoln  
 DeFazio  
 DeGette  
 Delahunt  
 DeLauro  
 Dicks  
 Dingell  
 Doggett  
 Donnelly  
 Doyle  
 Edwards  
 Ellison  
 Ellsworth  
 Emanuel  
 Eshoo  
 Etheridge  
 Farr  
 Filner  
 Frank (MA)  
 Giffords  
 Gillibrand  
 Gonzalez  
 Gordon  
 Green, Al  
 Green, Gene  
 Grijalva  
 Gutierrez  
 Hall (NY)  
 Hare  
 Harman  
 Hastings (FL)  
 Hereth Sandlin  
 Higgins  
 Hill  
 Hinchey  
 Hinojosa  
 Hirono  
 Hodes  
 Holden  
 Holt  
 Honda  
 Hooley  
 Hoeyer  
 Inslee  
 Israel

Aderholt  
 Akin  
 Alexander  
 Bachmann  
 Bachus  
 Baker  
 Barrett (SC)  
 Bartlett (MD)  
 Barton (TX)  
 Biggert  
 Bilbray  
 Bilirakis  
 Bishop (UT)  
 Blackburn  
 Blunt  
 Boehner  
 Bonner  
 Bono  
 Boozman  
 Boustany  
 Brady (TX)  
 Brown (SC)  
 Brown-Waite,  
 Ginny  
 Buchanan  
 Burgess  
 Burton (IN)  
 Buyer  
 Calvert  
 Camp (MI)  
 Campbell (CA)  
 Cannon  
 Cantor  
 Capito  
 Carter  
 Castle  
 Chabot  
 Coble  
 Cole (OK)  
 Conaway  
 Crenshaw  
 Cubin  
 Culberson  
 Davis (KY)  
 Davis, David  
 Davis, Jo Ann  
 Davis, Tom  
 Deal (GA)  
 Dent  
 Diaz-Balart, L.  
 Diaz-Balart, M.  
 Doolittle  
 Drake  
 Dreier  
 Duncan  
 Ehlers  
 Emerson  
 English (PA)  
 Everett  
 Fallon  
 Feeney  
 Ferguson  
 Flake  
 Forbes  
 Fortenberry  
 Fossella  
 Foxx

NOES—198

Franks (AZ)  
 Frelinghuysen  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Gilchrest  
 Gillmor  
 Gingrey  
 Gohmert  
 Goode  
 Goodlatte  
 Granger  
 Graves  
 Hall (TX)  
 Hastert  
 Hastings (WA)  
 Hayes  
 Heller  
 Hensarling  
 Herger  
 Hobson  
 Hoekstra  
 Hulshof  
 Hunter  
 Inglis (SC)  
 Issa  
 Jindal  
 Johnson (IL)  
 Johnson, Sam  
 Jones (NC)  
 Royce  
 Jordan  
 Keller  
 King (IA)  
 King (NY)  
 Kingston  
 Kirk  
 Kline (MN)  
 Knollenberg  
 Kuhl (NY)  
 LaHood  
 Lamborn  
 Latham  
 LaTourette  
 Lewis (CA)  
 Lewis (KY)  
 Linder  
 LoBiondo  
 Terry  
 Lungren, Daniel  
 E.  
 Mack  
 Manzullo  
 Marchant  
 McCarthy (CA)  
 McCaul (TX)  
 McCotter  
 McCrery  
 McHenry  
 McHugh  
 McKeon  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Moran (KS)  
 Murphy, Tim  
 Musgrave

Myrick  
 Neugebauer  
 Nunes  
 Paul  
 Pearce  
 Pence  
 Peterson (PA)  
 Petri  
 Pickering  
 Pitts  
 Platts  
 Poe  
 Porter  
 Price (GA)  
 Pryce (OH)  
 Putnam  
 Radanovich  
 Ramstad  
 Regula  
 Rehberg  
 Reichert  
 Renzi  
 Reynolds  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Royce  
 Ryan (WI)  
 Sali  
 Saxton  
 Schmidt  
 Sessions  
 Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Stearns  
 Sullivan  
 Tancredo  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield  
 Wicker  
 Wilson (NM)  
 Wilson (SC)  
 Wolf  
 Young (AK)  
 Young (FL)

## NOT VOTING—8

Brady (PA)	McMorris	Souder
Engel	Rodgers	Waters
Fattah	Sensenbrenner	Watson

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1518

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2237, PROVIDING FOR RE-DEPLOYMENT OF UNITED STATES ARMED FORCES AND DEFENSE CONTRACTORS FROM IRAQ; PROVIDING FOR CONSOLIDATION OF H.R. 2206, U.S. TROOP READINESS, VETERANS' CARE, KATRINA RECOVERY, AND IRAQ ACCOUNTABILITY APPROPRIATIONS ACT, 2007; AND PROVIDING FOR CONSIDERATION OF H.R. 2207, AGRICULTURAL DISASTER ASSISTANCE AND WESTERN STATES EMERGENCY UNFINISHED BUSINESS APPROPRIATIONS ACT, 2007

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 387, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 222, nays 201, not voting 9, as follows:

[Roll No. 326]

## YEAS—222

Abercrombie	Clay	Giffords
Ackerman	Cleaver	Gillibrand
Allen	Clyburn	Gonzalez
Altmire	Cohen	Gordon
Andrews	Conyers	Green, Al
Arcuri	Cooper	Green, Gene
Baca	Costa	Grijalva
Baird	Costello	Gutierrez
Baldwin	Courtney	Hall (NY)
Bean	Crowley	Hare
Becerra	Cuellar	Harman
Berkley	Cummings	Hastings (FL)
Berman	Davis (AL)	Herseth Sandlin
Berry	Davis (CA)	Higgins
Bishop (GA)	Davis (IL)	Hill
Bishop (NY)	Davis, Lincoln	Hincheys
Blumenauer	DeFazio	Hinojosa
Boren	DeGette	Hirono
Boswell	Delahunt	Hodes
Boucher	DeLauro	Holden
Boyd (FL)	Dicks	Holt
Boyd (KS)	Dingell	Honda
Braley (IA)	Doggett	Hooley
Brown, Corrine	Donnelly	Hoyer
Butterfield	Doyle	Insee
Capps	Edwards	Israel
Capuano	Ellison	Jackson (IL)
Cardoza	Ellsworth	Jackson-Lee
Carnahan	Emanuel	(TX)
Carney	Eshoo	Jefferson
Carson	Etheridge	Johnson (GA)
Castor	Farr	Johnson, E. B.
Chandler	Filner	Jones (OH)
Clarke	Frank (MA)	Kagen

Kanjorski	Mollohan	Scott (VA)
Kaptur	Moore (KS)	Serrano
Kennedy	Moore (WI)	Sestak
Kildee	Moran (VA)	Shea-Porter
Kilpatrick	Murphy (CT)	Sherman
Kind	Murphy, Patrick	Shuler
Klein (FL)	Murtha	Sires
Kucinich	Nadler	Skelton
Lampson	Napolitano	Slaughter
Langevin	Neal (MA)	Smith (WA)
Lantos	Oberstar	Snyder
Larsen (WA)	Obey	Solis
Larson (CT)	Oliver	Space
Lee	Ortiz	Spratt
Levin	Pallone	Stark
Lewis (GA)	Pascrell	Stupak
Lipinski	Pastor	Sutton
Loeb sack	Payne	Tanner
Lofgren, Zoe	Perlmutter	Tauscher
Lowe y	Peterson (MN)	Thompson (CA)
Lynch	Pomeroy	Thompson (MS)
Mahoney (FL)	Price (NC)	Tierney
Maloney (NY)	Rahall	Towns
Markey	Rangel	Udall (CO)
Marshall	Reyes	Udall (NM)
Matheson	Rodriguez	Van Hollen
Matsui	Ross	Velázquez
McCarthy (NY)	Rothman	Viscosky
McCollum (MN)	Roybal-Allard	Walz (MN)
McDermott	Ruppersberger	Wasserman
McGovern	Rush	Schultz
McIntyre	Ryan (OH)	Watt
McNerney	Salazar	Waxman
McNulty	Sánchez, Linda	Weiner
Meehan	T.	Welch (VT)
Meek (FL)	Sanchez, Loretta	Wexler
Meeks (NY)	Sarbanes	Wilson (OH)
Melancon	Schakowsky	Woolsey
Michaud	Schiff	Wu
Miller (NC)	Schwartz	Wynn
Miller, George	Scott (GA)	Yarmuth

## NAYS—201

Aderholt	Emerson	Linder
Akin	English (PA)	LoBiondo
Alexander	Everett	Lucas
Bachmann	Fallin	Lungren, Daniel
Bachus	Feeney	E.
Baker	Ferguson	Mack
Barrett (SC)	Flake	Manzullo
Barrow	Forbes	Marchant
Bartlett (MD)	Fortenberry	McCarthy (CA)
Barton (TX)	Fossella	McCaul (TX)
Biggert	Fox	McCotter
Bilbray	Franks (AZ)	McCrery
Bilirakis	Frelinghuysen	McHenry
Bishop (UT)	Gallegly	McHugh
Blackburn	Garrett (NJ)	McKeon
Blunt	Gerlach	Mica
Boehner	Gilchrest	Miller (FL)
Bonner	Gillmor	Miller (MI)
Bono	Gingrey	Miller, Gary
Boozman	Gohmert	Mitchell
Boustany	Goode	Moran (KS)
Brady (TX)	Goodlatte	Murphy, Tim
Brown (SC)	Grainger	Musgrave
Brown-Waite,	Graves	Myrick
Ginny	Hall (TX)	Neugebauer
Buchanan	Hastert	Nunes
Burgess	Hastings (WA)	Paul
Burton (IN)	Hayes	Pearce
Calvert	Heller	Pence
Camp (MI)	Hensarling	Peterson (PA)
Campbell (CA)	Herger	Petri
Cannon	Hobson	Pickering
Cantor	Hoekstra	Pitts
Capito	Hulshof	Platts
Carter	Hunter	Poe
Castle	Inglis (SC)	Porter
Chabot	Issa	Price (GA)
Coble	Jindal	Pryce (OH)
Cole (OK)	Johnson (IL)	Putnam
Conaway	Johnson, Sam	Radanovich
Crenshaw	Jones (NC)	Ramstad
Cubin	Jordan	Regula
Culberson	Keller	Rehberg
Davis (KY)	King (IA)	Reichert
Davis, David	King (NY)	Renzi
Davis, Jo Ann	Kingston	Reynolds
Davis, Tom	Kirk	Rogers (AL)
Deal (GA)	Kline (MN)	Rogers (KY)
Dent	Knollenberg	Rogers (MI)
Diaz-Balart, L.	Kuhl (NY)	Rohrabacher
Diaz-Balart, M.	LaHood	Ros-Lehtinen
Doolittle	Lamborn	Roskam
Drake	Latham	Royce
Dreier	LaTourrette	Ryan (WI)
Duncan	Lewis (CA)	Sali
Ehlers	Lewis (KY)	Saxton

Schmidt	Sullivan	Wamp
Sensenbrenner	Tancredo	Weldon (FL)
Sessions	Taylor	Weller
Shadegg	Terry	Westmoreland
Shays	Thornberry	Whitfield
Shimkus	Tiahrt	Wicker
Shuster	Tiberti	Wilson (NM)
Simpson	Turner	Wilson (SC)
Smith (NE)	Upton	Wolf
Smith (NJ)	Walberg	Young (AK)
Smith (TX)	Walden (OR)	Young (FL)
Stearns	Walsh (NY)	

## NOT VOTING—9

Brady (PA)	Fattah	Waters
Buyer	McMorris	Watson
Cramer	Rodgers	
Engel	Souder	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining.

□ 1527

Mr. MITCHELL changed his vote from “yea” to “nay.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEWIS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 219, nays 199, not voting 14, as follows:

[Roll No. 327]

## YEAS—219

Abercrombie	Davis (CA)	Jackson (IL)
Ackerman	Davis (IL)	Jackson-Lee
Allen	Davis, Lincoln	(TX)
Altmire	DeFazio	Jefferson
Andrews	DeGette	Johnson (GA)
Arcuri	Delahunt	Johnson, E. B.
Baca	DeLauro	Jones (NC)
Baird	Dicks	Jones (OH)
Baldwin	Dingell	Kagen
Barrow	Doggett	Kanjorski
Bean	Donnelly	Kaptur
Becerra	Doyle	Kennedy
Berkley	Edwards	Kildee
Berry	Ellison	Kilpatrick
Bishop (GA)	Ellsworth	Kind
Bishop (NY)	Emanuel	Klein (FL)
Blumenauer	Eshoo	Lampson
Boren	Etheridge	Langevin
Boswell	Farr	Lantos
Boucher	Filner	Larsen (WA)
Boyd (FL)	Frank (MA)	Larson (CT)
Boyd (KS)	Giffords	Lee
Braley (IA)	Gillibrand	Levin
Brown, Corrine	Gonzalez	Lewis (GA)
Butterfield	Gordon	Lipinski
Capps	Green, Al	Loeb sack
Capuano	Green, Gene	Lofgren, Zoe
Cardoza	Grijalva	Lowe y
Carnahan	Gutierrez	Lynch
Carson	Hall (NY)	Mahoney (FL)
Castor	Hare	Maloney (NY)
Chandler	Harman	Markey
Clarke	Hastings (FL)	Matheson
Clay	Herseth Sandlin	Matsui
Cleaver	Higgins	McCarthy (NY)
Clyburn	Hill	McCollum (MN)
Cohen	Hincheys	McDermott
Conyers	Hinojosa	McGovern
Cooper	Hirono	McIntyre
Costa	Hodes	McNerney
Costello	Holden	McNulty
Courtney	Holt	Meehan
Cramer	Honda	Meek (FL)
Crowley	Hoohey	Meeks (NY)
Cuellar	Hoyer	Melancon
Cummings	Inslee	Michaud
Davis (AL)	Israel	Miller (NC)