

for the automatic termination of a national emergency unless, within the 90-day period prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2012.

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001, in New York and Pennsylvania and against the Pentagon, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism, and maintain in force the comprehensive sanctions to respond to this threat.

BARACK OBAMA.

THE WHITE HOUSE, September 11, 2012.

□ 1300

PROVIDING FOR CONSIDERATION OF H.R. 5544, MINNESOTA EDUCATION INVESTMENT AND EMPLOYMENT ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 5949, FISA AMENDMENTS ACT REAUTHORIZATION ACT OF 2012

Mr. NUGENT. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 773 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 773

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5544) to authorize and expedite a land exchange involving National Forest System land in the Laurentian District of the Superior National Forest and certain other National Forest System land in the State of Minnesota that has limited recreational and conservation resources and lands owned by the State of Minnesota in trust for the public school system that are largely scattered in checkerboard fashion within the Boundary Waters Canoe Area Wilderness and have important recreational, scenic, and conservation resources, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of

the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112-30, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 5949) to extend the FISA Amendments Act of 2008 for five years. All points of order against consideration of the bill are waived. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate, with 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. NUGENT. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Colorado (Mr. POLIS) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. NUGENT. Madam Speaker, I ask unanimous consent that all Members

have 5 legislative days to revise and extend their remarks.

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

There was no objection.

Mr. NUGENT. Madam Speaker, I rise today in support of this rule, which provides for consideration of two different pieces of legislation.

The first of these bills transfers lands within the State of Minnesota to the benefit of the State's public school system. The rule provides for consideration of each and every amendment offered by Members to the Rules Committee by the amendment deadline.

The next measure this rule allows for consideration of is H.R. 5949, the FISA Amendments Act Reauthorization Act of 2012. Also called the FAA Reauthorization, this legislation would reauthorize programs that are critically important to our national security.

First passed in 2008, FAA has enjoyed a history of strong bipartisan support. Now, President Obama and his administration have made it clear that a clean, long-term extension of FAA is their number one intelligence priority. That's exactly what H.R. 5949 does.

Recognizing that our Nation's security cannot and should not wait until an emergency, the 11th hour, or rushed reauthorization, the Select Intelligence and Judiciary Committees have had hearings on the FAA's reauthorization, they've marked up the bill, and they've sent it to us months ahead of the expiration deadline. I congratulate both of these committees on their timely and dedicated work for the sake of our own safety.

It is with the tools that the FAA provides to our intelligence community that we're able to monitor our Nation's enemies overseas. Without this authority, the ability to track those individuals who aren't American citizens and want to do harm to this country would return to the state it was in before September 11 of 2001.

I really want to stress that the FISA Amendments Act applies to targeting non-U.S. citizens living outside of the United States.

The FAA also enhances civil liberty protections for Americans. The government cannot target an American overseas without first obtaining an individualized court order from the FISA Court. Prior to FAA, the government was not required to obtain an individualized court order to target U.S. persons outside of the United States. This is an expansion of the civil liberties made possible by the FISA Amendments Act.

As a former law enforcement officer, I know how important it is to get the information that we need to work on a case. Without good, reliable information, you can't do your job and protect the citizens, but the information must be obtained in the right way.

□ 1310

FAA is a critical tool at our international community's disposal in our war against terrorism.

I encourage my colleagues to join me in supporting our national security by voting for the FISA Amendments Act Reauthorization Act.

With that, I reserve the balance of my time.

Mr. POLIS. I thank the gentleman for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Madam Speaker, I rise in opposition to the rule and the underlying bills—H.R. 5544, the Minnesota Education Investment and Employment Act, and H.R. 5949, the FISA Amendments Act Reauthorization Act. There are significant problems in both pieces of legislation. However, both bills are, nevertheless, being brought forward under a restrictive process, despite the efforts of my colleague, Mr. McGOVERN, to amend the rule to allow for an open rule on amendments on both debates. Unfortunately, that motion failed in the Rules Committee. Instead, this rule is a restrictive process that limits debate and discussion that can improve this legislation.

Let me briefly address the lands law before getting to the FISA bill, which is of great concern to our civil liberties.

We have before us a bill that allows for the exchange of 86,000 acres of Minnesota's school trust lands within the Boundary Waters Canoe Area Wilderness for unidentified Forest Service lands. The wilderness is a critical asset for northeastern Minnesota's tourism and recreation industry, as well as the most popular wilderness area in our Nation's wilderness system. But since the bill doesn't even give details about what public land would be lost, we can't even say how bad a deal this is for the American people. It is simply bad policy to push through a controversial land swap bill without adequate public involvement and participation.

I strike that in contrast to a bill that I recently introduced, H.R. 6370, the Conveyance of the Forest Service Lake Hill Administrative Site. This bill does have accompanying maps that will be made available to the committee so that people can see where the land in question is. It is land that no longer fits the characteristics of forest land, having been deforested near the highway, about 40 acres, and it should not be a controversial bill.

In direct contrast to this bill, the bill I introduced today has support from the counties, towns, and local environmental community, and no local opposition to that bill. On the other hand, Mr. CRAVAACK's bill doesn't even identify what Forest Service parcels would be sold by the Federal Government and acquired by Minnesota. This kind of ambiguity in a land exchange bill is unprecedented for a land exchange bill and is not providing the adequate information to the Members of this body to make an informed decision on the underlying bill.

Now, let me address FISA—I take issue with a number of elements of

FISA—which extends the sweeping electronic surveillance network established under the FISA Amendments Act of 2008 for 5 years. I did not support the bill when it came before the House Judiciary Committee on which I serve, and I do not support this bill now.

Now, of course everybody in our country understands the serious threat our Nation faces from terrorist organizations and foreign nations, but we can't give up what makes it special for us to be Americans in the name of defending our country. Our privacy rights should not be eviscerated in the name of national security.

Many of these concerns are addressable, but unfortunately the bill fails to strike an appropriate balance between protecting our liberties and security. Some of its many shortcomings include giving the U.S. Government the ability to intercept U.S. residents' international phone calls and email communications without having to even name the people or groups it's monitoring or show its targets who are suspected of wrongdoing or terrorism. The target could even be a human rights activist, a media organization, a country, a region, an ethnicity. Nothing requires the government to identify its surveillance targets at all, nor are there sufficient parameters around making sure that they are narrowly tailored to our national security needs.

In addition, this bill unfortunately allows the U.S. to intercept communications without having to identify the location, the phone lines, the email addresses to be monitored. In essence, the government can use this new law to collect all phone calls between the U.S. and abroad simply by saying to the FISA court that it was targeting someone abroad and that a purpose of the new surveillance program is to collect foreign intelligence information.

The lack of judicial oversight is also startling. While the FISA courts have a limited role, it's limited to overseeing the government surveillance activities rather than reviewing individualized surveillance applications, including whether they are sufficiently broad or not.

Yesterday, the chair of our committee, Mr. DREIER, also mentioned that Congress itself has an oversight role in making sure that the broad powers given to the Federal Government under FISA are not abused. However, this Congress—and myself, personally—have not had any briefing with regard to the use of FISA.

Now, yesterday, representatives of the Intelligence Committee offered to make those briefings available, but I think the proper order to go about things, if Members of Congress are to make an informed decision about whether these vast powers given to the Federal Government are being used appropriately, would be to have the classified briefing first before bringing a 5-year extension bill to the floor so that Members of Congress, in a classified setting, have access to the information

that we need—the information that I need, the information my colleagues need—to make an informed decision about whether the proper controls are in place and the extent of the use and/or abuse of the vast powers given under FISA.

In addition, there are no real limits on how the government uses, keeps, or disseminates the information it collects. The law doesn't say what government can keep and has to get rid of. Potentially, this could lead to the archiving of material over decades. It fails to place real limits on how and to whom information can be disseminated. Whether it's our U.S. intelligence partners in other countries, whether it's contractors to our own government, we need to have the right controls around where private information is shared.

Finally, I want to address another element of the bill in my initial remarks, and that is the indemnity that is given to companies that violate their own terms of service and allow the government to trample the privacy rights of thousands of Americans.

Effectively, telecom companies and others that provide the government with enormous amounts of information are effectively completely indemnified, so there is no way to hold any of these companies accountable for their activities in violation of their own user agreement signed by two parties, themselves and their customer. There remains no way to enforce the violation of that user agreement because there is complete indemnity for those organizations.

I think there needs to be a way, through the regular court system, to hold companies accountable for their activities. Letting them off the hook entirely only invites widespread abuse and disregard of their own customer agreements. Why bother even having to post or have a privacy policy if, at the whim of the company—not the government, the whim of the company—it can be completely shared with the government in disregard to their own privacy policy because that is the most effective way for the company to receive a blanket indemnification to any civil liability that might arise from violating privacy laws and/or its own terms of use.

Again, national security is a critical imperative. We need to make sure that our agencies charged with keeping us safe have the right tools at their disposal to do so. But in the process of making sure that Americans are safe, we need to make sure we don't give up what makes it special to be an American.

I reserve the balance of my time.

Mr. NUGENT. Madam Speaker, a number of issues that my good friend from Colorado brought up cover both bills, actually. One, obviously, is the Minnesota bill as relates to public education. That was passed by the Minnesota State Legislature in a bipartisan way, and it was also signed by the

Democratic Governor of Minnesota in regards to this particular issue on this particular bill as it relates to Minnesota.

With that, I'm going to yield 7 minutes to the gentleman from Minnesota (Mr. CRAVAACK).

Mr. CRAVAACK. I thank the gentleman for yielding.

Madam Speaker, I rise today in support of the rule and the underlying bill, H.R. 5544, the Minnesota Education Investment and Employment Act. This bill will support the teachers and schoolchildren in the State of Minnesota, create well-paying jobs in northern Minnesota, and make the Boundary Waters Canoe Area, for the first time in its existence, whole.

We have to have a bit of context here.

When Minnesota became a State in 1858, sections 16 and 36 of every township in Minnesota were set aside in trust for the benefit of schools. The State could use, lease, or sell the land to raise money for education.

In the beginning, the State leaders decided to sell the more valuable parcels of the school trust lands, but around the turn of the century they realized they needed a more sustainable plan and began putting the school trust lands to productive use for timber and mining. This has been the goal of the State for over 100 years, and it has produced dividends for generations for our school kids.

As DFL State Representative Denise Ditrach has so ably educated me on, these lands are not so much owned by the State as held in trust by the State and owned by the schoolchildren of Minnesota. It is the responsibility of the school trust fund trustees to maximize the return on these lands for the benefit of this fund. This is a critical point. This is part of the Minnesota Constitution.

But in the 1970s, the Federal Government created the Boundary Waters Canoe Area Wilderness. These lands within the Boundary Waters cannot be logged, leased, or mined in order to preserve the unique wilderness character of this pristine land. Thousands of visitors from around the country come to enjoy this beautiful area. But as a result of its creation, Minnesota and its students have been faced with an 86,000-acre problem for over 30 years.

□ 1320

Eighty-six thousand acres of State-owned school trust lands have been locked within the borders of the Boundary Waters Canoe Area, unable to produce critical funding for Minnesota public education. It is imperative we resolve this longstanding problem. Our goal is to preserve and protect the Boundary Waters and allow State-owned school trust lands to raise revenue for Minnesota education.

Unfortunately, Minnesota school kids have been cheated out of public education funding for over 34 years

now. In the past, there have been a number of working groups, studies, and resolutions. Finally, after years of inaction, stalling and dilatory tactics by special interest groups, Republicans and Democrats together in Minnesota said enough is enough.

It's been referred to as Mr. CRAVAACK's bill. That is not, in fact, the case. This is Minnesota's bill.

On March 22 of this year, an overwhelming majority of Democrats and Republicans from the State senate passed senate file 1750 on a vote of 53-11. On April 3, the house followed suit, passing a bipartisan bill 90-41. On April 27, our Democratic Governor, Governor Mark Dayton, signed the bill into law.

H.R. 5544 executes a bipartisan State plan that Governor Dayton signed into law earlier this year. H.R. 5544 would exchange State-owned school trust lands trapped in the Boundary Waters Canoe Area Wilderness to the Federal Government in exchange for Federal Government-owned land outside the Boundary Waters Canoe Area Wilderness.

This bill includes important provisions that would ensure Minnesotans can maintain their existing hunting and fishing rights within the Boundary Waters. In addition, the bill exempts the land exchange process from NEPA.

The land exchange itself would have no environmental impact on any future development and would still be subject to strict State and Federal regulations.

Intuitively, a land swap is merely a redrawing of maps and has no environmental impact in and of itself. The mentioned activities, mining and logging, do, in fact, have environmental impact and would be subject to the full Federal and State review. Not one environmental protection is lost in the execution of this bill.

I want to be very transparent here. One of the hopes of my constituents is to have a bill to create good-paying jobs in the timber and mining industries. The lands listed in S.F. 1750 are rich in natural resources. Many of them lie in portions of the Superior National Forest that are already being successfully mined for iron ore and harvested for timber. It's a working and managed forest.

These activities employ thousands of workers and support tens of thousands of other ancillary jobs in the region. Northern Minnesotans want these and need these opportunities, and every American benefits from the steel and lumber that goes into our cars and into our homes.

While I generally support the aims of NEPA, the State of Minnesota has some of the strictest environmental standards in the country and a track record of successful regulation of mining and logging.

On the other hand, obstructionist special interest groups have a track record of abusing the NEPA process to sue and delay. I do not want these groups to continue to delay this land exchange, preventing Minnesota

schools from receiving the funding that they need and, quite frankly, they deserve.

The State of Minnesota cannot afford to be sued by environmental groups for years. Some of those arguing for NEPA are, in fact, arguing that defending lawsuits is an appropriate use of the taxpayer dollars and that it's okay to transfer wealth from State coffers to special interest groups. Interesting to note, many of these special groups aren't even from Minnesota.

Make no mistake. This will be passed and a bipartisan land exchange is going to get done. I will not allow special interest groups, acting in bad faith, to abuse the NEPA process and use frivolous lawsuits to block and derail a land exchange. If I could trust special interest groups to act in good faith and if I could trust the Federal bureaucracy to act promptly, I would include NEPA in this legislation.

The teachers and schoolkids in Minnesota can't wait years, if not decades. Currently, some of the schools in Minnesota have classrooms with over 40 kids, and some school districts, like mine in North Branch, have been reduced to a 4-day school week. I ask, is that progress?

This legislation will generate a lot of funding for our schools and create good-paying jobs. Importantly, the Minnesota Education Investment Employment Act will not eliminate a single acre of Boundary Waters land. In fact, it would include wilderness acres to the existing Boundary Waters Canoe Area Wilderness boundaries while giving Minnesota's children land that rightfully and constitutionally belongs to them.

I urge my colleagues to support this rule and the underlying bill.

Mr. POLIS. Remarkably, the underlying bill produced by Mr. CRAVAACK actually uncovered a permanent earmark that the CBO found provides \$6 million a year to three Minnesota counties. I think that in a Congress that is supposed to move past earmarks it's not a good precedent to include that earmark in the transition.

I'd also like to clarify that Governor Dayton, while, of course, asking for the land to be exchanged—and there doesn't seem to be disagreement about that—did not ask for NEPA to be short-circuited, nor do they ask to bypass the normal appraisal process.

With that, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Judiciary Committee Subcommittee on Crime, Terrorism, and Homeland Security.

Mr. SCOTT of Virginia. Madam Speaker, I oppose this rule because it does not allow consideration of amendments to the FISA bill that would strengthen the underlying bill by providing for greater accountability to the public of an otherwise wholly secretive process.

Operations of the government must be held accountable to the people. The problem with holding operations under

the existing FISA law is that most of the activities under it are conducted in secrecy. The fact that I or other Members of Congress have access to classified information regarding those secret activities is not sufficient for public accountability.

Even if I were satisfied by my access to classified information, that only reasonable and constitutionally justified actions are being taken by officials in secret, I would still feel the need to give greater assurances to the public other than simply, trust me, I'm satisfied, so should you. Curiously, if I'm not satisfied, there's nothing I could say because it's classified information.

The Foreign Intelligence Surveillance Act was passed in 1978 to curb abuses in collection and use of intelligence information, foreign and domestic. Under the original provisions of FISA, procedures for collection of foreign intelligence required the government to show not only that there was probable cause to believe that the target of the intelligence surveillance is an agent of a foreign power, but also that foreign intelligence-gathering is the primary purpose of the collection.

Under the USA PATRIOT Act of 2002 and beyond, the government now only needs to show the probable cause of the target is an agent of the Federal government, and that the foreign intelligence-gathering is merely a significant purpose of that collection. When foreign intelligence collection is not the primary purpose for the collection of information, we are left to wonder what the primary purpose of that action might be.

The FISA Act of 2008 went a step further, authorizing the collection of massive amounts of information about foreign persons reasonably believed to be outside of the United States without a warrant. With such massive amounts of information being collected, invariably information involving U.S. persons in the United States whose information may not be the target is also being collected.

The FAA of 2008 requires the executive branch to design targeting procedures which limit the scope of the collection before the government acts and minimization procedures which limit the use of information before the government collects it, and the FISA court reviews these procedures for legal sufficiency. However, with nearly all of this oversight being conducted in secret, the public has no choice but to take the government at its word.

We can do better. My amendment would simply require the executive branch to provide at least some documentation that it uses this authority narrowly, responsibly, and exclusively for foreign intelligence-gathering purposes, while protecting the material that would be classified. So we should reject this rule in favor of one that allows amendments to strengthen public accountability over the surveillance of Americans.

Mr. NUGENT. Madam Speaker, I certainly do appreciate the gentleman's

comments because, as a former law enforcement officer, I want to make sure that we protect Americans. But I'm not so sure I want to protect those in foreign countries that are not Americans, those in foreign countries that would do harm to America, like they did on this day 11 years ago.

You know, FISA—our good friend mentioned about 2008, but prior to 2008, Americans could be entrapped within the FISA context.

□ 1330

In 2008, that changed. What it said is that, if Americans become involved in a FISA investigation in which their names come up, the information comes up, it has to be minimized. Then they have to go to a Federal judge and to the FISA court to get an authorization to do what they need to do as it relates to a warrant in order to receive and recover that information. That's what 2008 did. What the President has asked is that we just continue to do what we did since 2008. The protections that were put in place for American citizens that were not there prior to 2008 are to be extended. That's the intent of the reauthorization act of the FAA.

I reserve the balance of my time.

Mr. POLIS. I yield myself such time as I may consume.

Madam Speaker, Congress will soon leave town again for a long district work period. We believe it is essential that before we go home we must extend tax cuts for the middle class. If we defeat the previous question here today, we will amend the rule to say that Congress needs to stay here to vote on the Middle Class Tax Cut Act and not go home until we've made sure the middle class tax cut extension becomes law and that tax rates do not increase for millions of American families.

To speak about the previous question, I yield 2 minutes to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. I thank the gentleman.

There is agreement in this Congress that we've got to create jobs in this economy. There is 100 percent agreement that we should extend tax cuts for 98 percent of the American people. If there is 100 percent agreement among the 435 Members of Congress to provide a continuing benefit to 98 percent of the people, why don't we do it? That's pretty good. The election will allow each side to make its argument about the tax cuts for the 2 percent. Incidentally, that 2 percent would be included. They'd get their tax cuts on the first \$250,000 of income. So what we really have is 100 percent agreement that 100 percent of the people will get a tax cut, and we have a disagreement about whether 2 percent of the people will have their tax cuts stopped at \$250,000.

We know that extending those Clinton-era tax rates is very important in order to maintain what is a fragile recovery. If we can step back from our political posturing and acknowledge that, in fact, we do agree that it is es-

sential to the economy to extend those Clinton-era tax rates, why not do it sooner rather than later? Number one, there is no guarantee after the election that it will be easier to do then than it will be now. It's a roll of the dice on both sides.

It would be one thing if the only thing at stake were our political futures, our political careers. That's not a big deal. Yet what's at stake is the American economy. It's about whether people have jobs, whether they have security, whether they can depend on what they need to raise their families. Some of those provisions are really important to students—a tax credit if you have a kid in college. Some of those are important as to whether you're going to be able to continue to itemize your deductions if you're a middle class family. Some of those are about the rates of tax that you pay.

We agree on all of this, but it is solely within the power of the majority to decide whether to bring this bill to the floor for a vote. We are asking that it be done on behalf of the American people.

Mr. NUGENT. I yield myself such time as I may consume.

Madam Speaker, we have heard a lot, particularly as it relates to FISA. I want to clarify and make sure everyone understands that the FAA authorizes the targeting of non-U.S. citizens who are overseas. They are not citizens of the United States. Thus, they don't have the protections under the United States Constitution—nor should they.

If an American becomes a target during the investigation, just as in a criminal investigation when I was sheriff and someone became a target during a wiretap, we then have to identify that person. If we want to go after him, if we want to eavesdrop on his conversations, we have to get a separate order to allow us to do that. Back in 1978, when this was first put in place—guess what?—if an American were picked up in one of these wiretap operations, there was no requirement to go back and get a separate authorization to go after that American citizen. But 2008 changed that. 2008 put in a particular protection for American citizens who may get caught up in a FISA investigation in regards to the collection of data or voice transmissions. That's the difference.

So, when people start talking about it as it relates to civil liberties, if you live in a foreign country, you don't have civil liberties with us if you're plotting against the United States. That's the whole identification reference to this: that it's a foreign country and a non-U.S. citizen.

With that, I reserve the balance of my time.

Mr. POLIS. I would like to inquire of the gentleman from Florida how many speakers he has remaining.

Mr. NUGENT. I have none.

Mr. POLIS. Then I am prepared to close, and I yield myself the balance of my time.

Madam Speaker, at a time when millions of Americans continue to struggle to find work, our Federal deficit continues to mount. Here we are in Congress after a 5-week recess—doing what?—considering, one, a faulty land swap deal that is a bad deal for the general public, that contains a hidden earmark and is controversial among local communities in Minnesota, and, two, a major reauthorization bill under a closed process that significantly curtails our liberties as Americans without there being any opportunities for Members of either party to offer suggestions about how to reconcile liberty with security.

Look, Congress' "to do" list remains long, and it's steadily growing. The American public is upset that Congress isn't tackling the deficit or the debt. Congress isn't tackling jobs, infrastructure, moving forward and investing in our future economic growth. Among Congress' unfinished business is a tax increase that will hit the middle class unless Congress acts.

If we defeat the previous question, we will make sure that Congress does not go home before making sure that middle class taxes do not go up. In fact, according to the House Clerk's Office, only 61 bills have become law in 2012. That's the fewest number of bills in 60 years. We only have 7 days that this House of Representatives is working here in Washington in September, yet this Congress continues to refuse to make the hard choices needed to get our economy moving.

It's time to roll up our sleeves and get to work in making sure that we have the ability to protect Americans from threats. Let's do so in an open way that encourages ideas from both sides and that has a classified briefing at which Members of Congress can receive the information we need to suggest how or if FISA needs to be changed before it's authorized for a carte blanche 5 additional years.

It is important to reject both of these underlying rules and these underlying bills. It is time to focus on job creation, deficit reduction, and tax reform, not on trying to rush to the floor an earmark land swap with no map for Minnesota, for what can only be taken to be purely political reasons, as well as there being under a closed process a bill about which many of us have grave concerns and that undermines our right to privacy as Americans.

I urge a "no" vote on the rule and the two flawed underlying bills, and I ask unanimous consent to insert into the RECORD the text of my amendment to the rule, along with 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 Colorado?

There was no objection.

Mr. POLIS. Madam Speaker, I urge my colleagues to cast a thoughtful vote and to vote "no" on the rule and the bills and to defeat the previous question.

I yield back the balance of my time. Mr. NUGENT. I yield myself the balance of my time.

Madam Speaker, I've heard my good friend from Colorado. Maybe he wasn't serving on the Judiciary Committee this summer, but prior to this being vetted within the Judiciary Committee, all the members there were offered a classified briefing as it relates to FISA. Every member had the opportunity to attend that. As I said, I'm not sure if Mr. POLIS was a member of that Judiciary Committee at the time it was offered to all. As a matter of fact, yesterday, at the Rules Committee, the ranking Democratic member of the Intelligence Committee, Mr. RUPPERSBERGER, pointed out to the Rules Committee that, at any time, any Member of this House can request a classified briefing—any Member.

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He wanted to make sure that this didn't become a political football. He admonished all of us not to make this a political statement, but to do what's right for this country.

I hear time and time again from my good friend as this relates to civil liberties of Americans. If you look back to 2008, that was rectified. Prior to that I would tell you that the civil liberties of Americans were in jeopardy, but in 2008, that was corrected, and it's continued on in this reauthorization of 2012.

Once again, the FISA court is comprised of U.S. District Federal judges, and they also have a right to appeal to a court of review made up of Federal judges. The information, as Mr. RUPPERSBERGER said, is if you want a briefing requested, if you want additional information in a classified setting requested, every Member has that opportunity. As a matter of fact, in the Intelligence Committee, there wasn't one opposing vote. Democrats and Republicans alike came together and said this is what's important to keep America safe. They don't want to have another 9/11 on their watch. At the same time, we want to protect all Americans.

When people start throwing this around and saying this is an assault on American civil liberties, that's just not right, it's not correct, and it's wrong because this bill does everything to protect Americans from intrusion into their private lives. It forces the Federal Government to go back to court if it uncovers through these surveillance techniques activities by an American citizen who's doing something wrong as it relates to terrorism against this country. It gives them a process to do it because, prior to 2008, they could do it without abandon. They could wind up collecting any information on U.S. citizens. In 2008, that changed and rightfully so. There should be constraints on the Federal Government.

I heard also there's no checks and balances. That's just not true. Every 60 days there's a report done in reference

to FISA in regards to the intercepts. Twice a year, there's an automatic report that has to be generated that goes to Congress. And at any time, the Judiciary Committee and the Intelligence Committee can hold hearings—and they do—as it relates to classified information, as it relates to FISA. That's oversight. That's what we're supposed to do.

And the reason they say this is secret—well, guess what, it's not secret, but it's kept under wraps because of this: if we tell our techniques to our enemies, then guess what? They'll figure out a way to circumvent so they can get the information, pass the information, and conspire against this country. That's the reason in law enforcement we don't give up our techniques because the bad guys will figure it out. They're pretty smart folks. They have time on their hands. What we don't want to do is give them time on their hands to assault the United States of America, kill our citizens, kill and injure those first responders, and then put our military at risk.

This is directed to those that live outside of this country, those that are not American citizens. Let me make this perfectly clear. Besides all the rhetoric of those who would love to inflame different people as it relates to this, this has nothing do with American citizens, except if they do get caught up in a conversation with someone who is a foreign national that it does have to go back to court to get that specific authorization to record or transmit that information as it relates to them.

Madam Speaker, I encourage my colleagues on both sides of the aisle to support this rule and bring these two very important pieces of legislation to the House floor for a vote. If there's one duty that is inherently part of our Federal Government's core mission, it's to provide for our national security. None is more important than making sure that this Republic survives.

The FISA Amendments Act Reauthorization is a key tool in keeping our Nation safe. We heard it from both sides of the aisle who testified in front of the Rules Committee yesterday. As we continue to fight terrorists around the world who want nothing more than to harm our Nation, the FAA gives our intelligence community the tools they need to track these enemies overseas. That's the important word, "overseas." We can't give up that fight, which is why we need to keep using the information we have access to. The FISA Amendments Act Reauthorization balances this need for security with civil liberty protections for Americans living abroad. It keeps us safe at home while protecting Americans living around the world.

I encourage my colleagues on both sides of the aisle to continue the bipartisan tradition of supporting the FAA and to vote for this bill.

The material previously referred to by Mr. POLIS is as follows:

AN AMENDMENT TO H. RES. 773 OFFERED BY
MR. POLIS OF COLORADO

At the end of the resolution, add the following new sections:

Sec. 3. Upon completion of consideration of House Resolution 746 the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 15) to amend the Internal Revenue Code of 1986 to provide tax relief to middle-class families. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

Sec. 4. Clause 1(c) of rule XIX shall not apply to the consideration of the bill specified in section 3 of this resolution.

Sec. 5. Immediately upon adoption of this resolution, the House shall proceed to the consideration in the House of the resolution (H. Res. 746) prohibiting the consideration of a concurrent resolution providing for adjournment or adjournment sine die unless a law is enacted to provide for the extension of certain expired or expiring tax provisions that apply to middle-income taxpayers if called up by Representative Slaughter of New York or her designee. All points of order against the resolution and against its consideration are waived.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

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 Republican 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 Republican 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 Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In 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 Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. NUGENT. With that, 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 ayes appeared to have it.

Mr. POLIS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for a period of less than 15 minutes.

Accordingly (at 1 o'clock and 46 minutes p.m.), the House stood in recess.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WESTMORELAND) at 2 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: ordering the previous question on House Resolution 773; adopting House Resolution 773, if ordered; and suspending the rules and passing H.R. 4264.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 5544, MINNESOTA EDUCATION INVESTMENT AND EMPLOYMENT ACT, AND PROVIDING FOR CONSIDERATION OF H.R. 5949, FISA AMENDMENTS ACT RE-AUTHORIZATION ACT OF 2012

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on the resolution (H. Res. 773) providing for consideration of the bill (H.R. 5544) to authorize and expedite a land exchange involving National Forest System land in the Laurentian District of the Superior National Forest and certain other National Forest System land in the State of Minnesota that has limited recreational and conservation resources and lands owned by the State of Minnesota in trust for the public school system that are largely scattered in checkerboard fashion within the Boundary Waters Canoe Area Wilderness and have important recreational, scenic, and conservation resources, and for other purposes, and providing for consideration of the bill (H.R. 5949) to extend the FISA Amendments Act of 2008 for five years, 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.

The vote was taken by electronic device, and there were—yeas 232, nays 177, not voting 20, as follows:

[Roll No. 560]

YEAS—232

Adams	Benishak	Brady (TX)
Aderholt	Berg	Brooks
Alexander	Biggart	Buchanan
Amash	Bilbray	Bucshon
Amodel	Bilirakis	Buerkle
Austria	Bishop (UT)	Burgess
Bachmann	Black	Burton (IN)
Bachus	Blackburn	Calvert
Barletta	Bonner	Camp
Bartlett	Bono Mack	Campbell
Barton (TX)	Boren	Canseco
Bass (NH)	Boustany	Cantor