

using the latest techniques work to improve the lives of all they serve. The role and importance of the family are stressed, with the ultimate goal of preserving the family unit whenever and wherever possible.

Today I want to commend Parsons' service and commitment to our region's families and children. I encourage us all to look towards them as a model of positive support and outcomes in a system that has turned around the lives of so many. With one in every five American children living in poverty, we commend the role of the professionals at Parsons for the work it does.

#### RECOGNIZING THE MURRAY GREY FOUNDATION AND WREATHS ACROSS AMERICA

(Mr. WITTMAN asked and was given permission to address the House for 1 minute.)

Mr. WITTMAN. Mr. Speaker, I rise today to recognize the Murray Grey Foundation and Wreaths Across America. The Murray Grey Foundation and its Military Families Support Fund provides America's military families with emergency financial support and resources in their time of need.

The Murray Grey Foundation recognizes that the sacrifices that our military servicemembers and their families continue to make are not only personal and professional but also financial. The foundation assists by providing financial assistance, education, and support to help military families avoid foreclosure or eviction from their homes and preserve their home ownership. They also provide emergency financial support, food, clothing, utility payments, transportation, rent and other critical resources.

This year, the foundation partnered with Wreaths Across America, which places wreaths on the graves of veterans, to establish the Patriots Wreaths Program.

I applaud the outstanding contributions of organizations like the Murray Grey Foundation and their work to honor the contributions of our Nation's veterans, servicemembers and their families.

#### ARC OF BROWARD COUNTY

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN of Florida. Mr. Speaker, last week I had the chance to visit a remarkable organization in my congressional district, the ARC of Broward County. ARC Broward is a private, not-for-profit organization that supports children and adults with autism, Down's syndrome and other developmental disabilities.

This innovative group provides an invaluable service for their clients in our community. Currently serving over 1,600 people, ARC Broward also provides good jobs for more than 450 local

health care, educational, and other professionals.

ARC clients find independence and dignity both at home and at work. ARC is currently home to 80 residents, many of whom have single family homes that ARC owns and operates. In addition, they provide job training in fields like culinary arts and own and operate an on-campus electronic recycling business.

I would like to thank the residents and staff at the ARC for welcoming me so warmly last week and congratulate all of them on their extraordinary contributions to our community.

#### JOBS AND ECONOMIC GROWTH

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I'd like to thank President Obama for convening a forum on jobs and economic growth in the White House today.

As too many of our constituents enter this holiday season perhaps having lost their jobs or facing lower wages, higher health care costs, or out-of-control mortgages, and many of whom have lost their homes, we absolutely must focus on rebuilding our economy and pursuing all avenues to create jobs. Rhode Island felt the painful effects of the current economic downturn, and that is why it is so important to me that we have a seat at this forum.

I am pleased to say that President DiPasquale of the Community College of Rhode Island will be there to share their perspective on workforce development, job training, retraining workers, and educational opportunity for the 21st century.

Economic development continues to be my top priority, and I look forward to working with my friends in Congress and with President Obama to increase job opportunities across our country.

#### PROVIDING FOR CONSIDERATION OF H.R. 4154, PERMANENT ESTATE TAX RELIEF FOR FAMILIES, FARMERS, AND SMALL BUSINESSES ACT OF 2009

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 941 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 941

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4154) to amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, to retain the estate tax with a \$3,500,000 exemption, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The bill shall be considered as read. All

points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. In the engrossment of H.R. 4154, the Clerk shall—

(a) add the text of H.R. 2920, as passed by the House, as new matter at the end of H.R. 4154;

(b) conform the title of H.R. 4154 to reflect the addition to the engrossment of the text of H.R. 2920;

(c) assign appropriate designations to provisions within the engrossment; and

(d) conform provisions for short titles within the engrossment.

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

Mr. POLIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials into the RECORD.

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

There was no objection.

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

Mr. Speaker, this rule provides for consideration of H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI and against the bill itself. The rule provides that the previous question shall be considered as ordered without intervening motions except 1 hour of debate and one motion to recommit with or without instructions.

In the engrossment of H.R. 4154, the Clerk is directed to add at the end the text of H.R. 2920, the Statutory Pay-As-You-Go-Act of 2009, as passed by the House.

Mr. Speaker, this past weekend in honor of the Thanksgiving holidays, NBC's "Meet the Press" hosted the Reverend Rick Warren in a discussion on giving and civic duty. During the dialogue, Rev. Warren stated his belief that it isn't a sin to be rich, but it is a sin to die rich. While I don't agree with Rev. Warren on many issues, I ask my colleagues to now reflect on the meaning of those words. The Reverend was speaking, of course, of the importance of charity and our moral obligation to improve the condition of our fellow man whenever and wherever we can.

Today I speak to you with the same sense of duty—duty to our country that has allowed me personally to achieve personal wealth, and in turn, to help others.

Mr. Speaker, the bill before us under this rule is a significant tax cut. Without this bill, the estate tax will return in the year 2011 at a much lower exemption amount, an exemption of \$1 million instead of an exemption at a rate of \$3.5 million and at a much higher tax rate, a tax rate of 55 percent rather than a tax rate of 45 percent, which we have under this bill.

□ 1030

We all know that the occasion of the death of a loved one is a very difficult time for family and friends. The price of love is unfortunately loss, and that's a price that we all must pay at some point in our lives. While no act of government can ease this emotional pain, today we have the opportunity to at least give families who have achieved great success some surety in their ability to ensure that the next generation will receive the benefit of their works.

An estate tax distorts a free market less than an income tax. Instead of taxing productive capital, it takes taxes from a random heir. On a revenue-neutral basis, I for one would much rather pay taxes after dying than before dying. And however much an income tax may distort the market, an estate tax distorts it less on a revenue-neutral basis.

Mr. Speaker, allow me to be clear. Individuals like myself, who through hard work have been able to start businesses, create jobs, and, as a result, have been rewarded with the financial resources to provide a high standard of living for our families, have a duty to our fellow Americans to pay our fair share. And an estate tax, the existence of an estate tax, is critical to prevent a permanent aristocracy from arising in this country.

When I think of the everyday tax burden for my constituents or, for that matter, for my staff and associates as a proportion of their income as a result of sales taxes, property taxes, let alone income taxes, I can think of no credible argument for suggesting that an estate tax is unreasonable. I also take comfort in knowing that, with the passage of this bill, we are locking in that 99 percent of my constituents will never pay the estate tax. According to The Urban-Brookings Tax Policy Center, under this proposal only .25 percent, that's ¼ of 1 percent, of debts would be subject to an estate tax.

We ask those who labor to build the roads to also shoulder the cost. We ask those who educate our Nation's children to also help pay for the schools. Shouldn't we ask those who die with wealth to help give back a little to those around them? I say to my colleagues this is fair, this is right.

When factoring the full costs of being a member of a society, it's very clear that all too often we ask the most of those who have the least. For our country to continue to prosper, we can't just rely on the middle class to support our Nation's public safety and welfare and to cushion the success of families

who are successful in this country. I can personally tell you, as one of those Americans that's in the .25 percent, I would gladly pay an estate tax to give back to the 99.75 percent of families who do the heavy lifting in this country every day and ensure that they never have to pay this tax and that family farms can be passed down to the next generation and small operating family businesses will be subject to no estate tax.

Yes, Mr. Speaker, I agree with Rev. Warren that it's no sin to be rich, but I disagree that it is a sin to die rich. A life's work should rightly be a benefit to one's heirs and one's causes. My belief that a family farm, a family business, or simply accumulated wealth should be passed from one generation to the next is consistent with the fact that those who benefited the most from the freedom and security that this country offers should pay their fair share for the benefits and the landscape that allowed them to reach the level of success that they did.

What all Americans deserve, rich or poor, is the knowledge that at a time of great personal pain for families, the stress will not be exacerbated by a complex or uncertain tax policy. That's one of the many reasons I ask my colleagues to join me in supporting this rule and the underlying bill.

Throughout our history, transfer taxes have been used to fund critical operations of the Federal Government. The modern estate tax was established by the Revenue Act of 1916 to offset declining import tariff revenues as a result of and to finance the United States' participation in World War I. Since World War I, the estate tax has continued to provide Federal revenues that have financed World War II and the New Deal, and have helped end the Great Depression. The estate tax includes, importantly, an unlimited deduction for charitable giving. In 2006 nearly two-thirds of charitable requests came from estates valued over \$10 million.

What a way for Americans to leave a legacy for the next generation. Universities, hospitals, and arts organizations have come to rely on these contributions from our Nation's most wealthy. One need only tour a college campus to see the direct impact of the philanthropy on our students and its effect on our future displayed prominently on plaques outside many campus buildings like those at the University of Colorado in Boulder, which I represent.

H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act, does exactly what it says. The bill will make permanent the lowest estate tax rate our Nation has seen in a decade, making the current rate permanent and giving families the ability to plan ahead for an orderly transfer of assets. Business owners will be able to plan ahead to ensure that their employees will still have a job and their company will be able to continue to provide for their

families after they're gone. Farmers will be able to keep their land in their family.

I remind my colleagues that the \$3.5 million exemption means that no family will pay any estate tax unless the estate is valued at at least \$3.5 million. It is substantially higher than it has been in this decade, and without our action today, we put families in a situation of unnecessary financial uncertainty at a time when their head and their hearts can least afford it. Without this bill the estate tax will return in the year 2011 at a much lower exemption amount of \$1 million and a much higher tax rate of 55 percent.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I would like to thank my friend the gentleman from Colorado (Mr. POLIS) for the time.

Mr. Speaker, I yield myself such time as I may consume.

Eight years ago, Mr. Speaker, the Republican-led Congress passed legislation that provided over \$1.3 trillion in tax relief by, among others, gradually increasing the exemption for the estate tax while decreasing the tax rate itself. As part of that legislation, the estate tax, also known as the death tax, is set to disappear next year. The underlying bill would undo the repeal of the death tax and instead bring back the tax, extend the estate tax rate of 45 percent, and include an unindexed exemption.

I believe these are excessively high rates of taxation, especially when we realize that the tax is imposed at the end of a lifetime of work on which taxes were paid throughout the stages in which income was made. It is wrong, I believe, to tax individuals who have spent their entire lives working to provide their families with some financial security, and so that's why I oppose the underlying legislation.

This double taxation, which is really what we're talking about today, I believe is destructive to family-owned businesses and farms, which are often torn apart or need to be liquidated entirely just to pay those burdensome taxes at the time of death. Americans who work hard and pay taxes all of their lives I don't think should be punished for responsibly saving with yet another tax when they pass away.

When the country has double-digit unemployment, the current majority in Congress is threatening small businesses, the engines of economic growth and job creation in the Nation, with even higher tax burdens. Small businesses are often struggling to survive, to meet payroll and avoid layoffs, and yet this is another example, Mr. Speaker, of the fact that the majority time and time again is proposing legislation that hampers the ability of small businesses to thrive and to hire new workers.

It's unfortunate that the majority feels that they can continuously impact, hit small businesses with tax after tax and expect them to survive

and thrive and retain their workers. That's not the way the economy works.

Even if small business owners do not receive an estate tax bill, they still spend resources on estate tax compliance. According to a recent survey of small and medium-sized manufacturers, those small businesses spend an average of \$94,000 on fees and estate planning costs in preparation for an estate tax bill. Imagine what a small business, Mr. Speaker, could do with that money. They could invest it in their company to grow their business. They could add more workers. Instead, the majority prefers placing more and more burdens. And this is but one example, the legislation being brought forth to the floor today, of the majority's incessant endeavor to place more and more burdens on the engines of our economic growth.

Small businesses are responsible for 60 to 80 percent of all new net jobs that were created in the last decade. If the majority continues with their current policies, if they continue on this track of placing more and more burdens on small business, the unemployment rate is going to continue to rise.

I think what we should be doing is everything possible to lower unemployment, to spur investment and job growth. That's where we should be heading.

So I believe what we should be doing is extending the repeal of the death tax. And many of us in this Congress, especially on this side of the aisle, we feel very strongly on this issue. Short of passing the permanent repeal, which I support, at the very least I think we should enact legislation that sets a reasonable rate, provides an appropriate exemption amount, and indexes that amount for inflation. We already saw with the alternative minimum tax what not indexing is capable of doing when Congress acts in that manner. So, unfortunately, the bill does nothing of what I just said, a reasonable rate and indexing an exemption amount.

Yet we on our side of the aisle will not be able to have a debate on legislation, on a proposal to do just that, to index an exemption amount and set a reasonable rate indefinitely into the future. We won't be able to do that because the majority again is closing down the process, shutting down debate. They promised to do quite the opposite, as you know, Mr. Speaker.

So let's contrast what the current majority is doing today with the estate tax rule that we passed when we were in the majority. That rule allowed our distinguished colleague Mr. POMEROY to offer his substitute amendment. Today we in the minority will be treated much differently.

□ 1045

We will not be given the opportunity that we gave the current majority and Mr. POMEROY. We will not be allowed to debate our substitute proposal. We will not be afforded a vote on our alternative legislation.

The difference in treatment is not an isolated incident but the standard operating procedure for this majority. They continuously close down the process. They shut out Members from both sides of the aisle from being able to introduce and have debated their amendments, and I think it is unfortunate.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, let me be clear with what happens if the House does not pass this bill: The estate tax would go away for 1 year in the year 2010, and then it would return at 55 percent and a deduction of only \$1 million, so every estate above \$1 million would be taxed at a rate of 55 percent. Many families would lose their family businesses, their family farms, if we fail to act and pass this bill to preserve the ability of Americans to pass along their assets to the next generation.

It would also create a very bizarre circumstance in the year 2010 where there would be an incentive to die. I had a friend with a good sense of humor who stated that his wealthy family, his father, had joked with him that he planned not to stand near the top of a staircase in the year 2010 if that was the case.

Mr. Speaker, the estate tax is paid by very few Americans. Historically, fewer than 2 percent of Americans have paid the estate tax, and under this bill it will be even less. And only 3.5 percent of those who pay the estate tax pay it on small business assets, and only 5 percent on farms. When looking at specifically family-owned businesses, the number goes down to one-half of 1 percent.

Mr. Speaker, let us talk about the options for wealthy families. The estate tax does two important things. First, it provides revenue to government to provide services in the context in which wealth can grow, provides the landscaping in our country that allows entrepreneurs and businesses to succeed. Programs paid for from this revenue fund our social safety net, our legal structure, our public safety programs, and our regulatory framework that allows businesses to prosper. It is the protection of the law that allows those who have gained wealth to be able to keep it and transfer it to the next generation.

The second and, arguably, also more important function of the estate tax is to provide an incentive for charitable giving. By supporting charities and nonprofit organizations of their choice, the wealthy can simultaneously give back to the community directly and protect the assets that they leave to their heirs.

The estate tax is an important incentive to leverage the work of government with the efforts of nonprofits to create broad opportunities and assistance throughout society. By making the rules of the estate tax stable and permanent, we give families the ability to plan for their future as well as invest in the future of their communities.

We know that planned giving is an important part of the fundraising strategy for the nonprofits that do the good work that government and industry cannot, and there is no denying the link between the estate tax rate and the amount of planned giving. A 2004 Congressional Budget Office analysis of charitable giving in the year 2000 indicated that estate tax not only provided an incentive for charitable giving at death, but also played a role in philanthropic decisions made during people's lives. The same report estimated that the repeal of the estate tax would result in a decrease in bequests of anywhere from 16 to 28 percent or \$13 billion to \$25 billion, more than total corporate donations in a year.

I ask my colleagues, which universities do you know could take a 16 to 28 percent hit to their endowment, coupled with the decreases in the market of the last year, and yet continue to prepare our students to be competitive in the global marketplace? This is the real-world impact of what would actually occur were the estate tax to be abolished in the year 2010, not to mention what would happen when it came back at 55 percent and only a \$1 million deduction the following year.

Now imagine in the worst case scenario devised by opponents of the estate tax. Imagine that came true for a family, that in order to pay the tax, the heirs had to liquidate the assets of a business that had been in the family for some time. Do opponents of this bill truly believe that somehow making the family pay capital gains tax on these assets if they had purchased them in 1959 would be better? I know in my district, due to the growth and economic success Colorado has enjoyed, taxation on real estate assets, as an example, from a 1959 basis would be devastating. It would capture a much larger portion of middle class families. Many middle class families and, indeed, wealthy families worth \$1 million, \$2 million, \$3 million would be stuck with large tax bills forcing liquidation if they were forced to pay capital gains tax on a 1950 basis or a 1959 basis.

I can't tell my constituents that I am against a permanent reduction in the estate tax and yet support a dramatic increase in capital gains taxation for them, which would bring the estate tax to upper middle class families. I hope the majority of my colleagues agree and will support the rule and the underlying bill.

I would like to thank Chairman RANGEL, the members of the Ways and Means Committee and their staffs for their efforts in bringing this bill, and the gentleman from North Dakota (Mr. POMEROY) for introducing this bill.

I urge my colleagues to consider that 99.75 percent of Americans will never pay this tax; and those who do should be thankful that they have had the opportunity to succeed in this great country and the privilege, the honor of being in a position where they are subject to this tax because their estates are worth more than \$3.5 million.

I would like to remind my colleagues who stand by the old adage "you can't take it with you," and I ask my friends and colleagues to consider the far-reaching benefits of charity and a sense of duty to country, and I ask for the passage of this rule and the underlying legislation.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Speaker, I rise in strong opposition to this rule as well as the underlying bill, H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009.

In 2001, this Congress passed legislation that was signed into law by President Bush that provided significant estate tax relief for families. Before this action was taken, individuals who passed away could face up to a 55 percent tax for estates valued over \$3 million. Additionally, if the value of those estates were between \$10 million and \$17 million, then the estates were hit with an additional 5 percent surtax, a grand total of 60 percent.

Since the 2001 tax cuts have been enacted, the overall estate tax has been gradually reduced. For deaths that occur in 2009, the estate tax ceiling is 45 percent for estates valued over \$1.5 million, but it allows up to \$3.5 million in assets to be exempted. Furthermore, current law dictates, and rightfully so, that the estate tax will be completely repealed in 2010.

Mr. Speaker, while a number of my colleagues on the other side of the aisle will claim that the estate tax in this bill will only affect the lavishly wealthy, the estate tax has the potential to drive a number of hardworking families, many of whom are small business owners, to liquidate assets and sell their businesses and farms that they have owned for generations. Clearly, this is not the intent of any form of an estate tax. And I don't believe that Rev. Rick Warren's remarks on "Meet the Press" this past Sunday were advocating that our children and our grandchildren should be born poor and die poor.

I wholeheartedly believe that there should be no "taxation without respiration," and I support a full repeal of the estate tax. Former Congressional Budget Office Director Douglas Holtz-Eakin issued a study earlier this year that indicated the long-term impact of eliminating the death tax would be to increase small business capital investment by \$1.6 trillion and create up to 1.5 million jobs, something this country, Mr. Speaker, desperately needs.

Unfortunately, this closed rule and underlying bill look to break the commitments made by Congress in 2001 by extending the estate tax at the 2009 level in perpetuity. And I am also concerned that although the exemption level is \$3.5 million under H.R. 4154, it is not properly indexed for inflation

and we could, therefore, find ourselves in a situation similar to the alternative minimum tax where individuals could inadvertently be subjected to the tax in the future.

I urge all of my colleagues to defeat this rule. Let's go back and have an open debate, as the gentleman from Florida said, on the repeal of the estate tax. That is what we should do.

Mr. POLIS. I am our final speaker, so I reserve the balance of my time to close.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Ms. FOXX), my distinguished friend and colleague from the Rules Committee.

Ms. FOXX. Mr. Speaker, I want to say that this rule and the bill exemplify the arrogance of the majority party. Once again, they show their bias to government control of our lives as opposed to support of the American family. They also show their arrogance in bringing a closed rule because they indicate that this is a perfect bill. It hasn't been through committee. They allow no amendments, so they must consider it a perfect bill. We know there is at least one flaw, as my colleague from Georgia just indicated, and that is the problem with indexing. Just as we have had to fix the AMT every year, we will have to do that with this or else more and more people will be caught with this bill as it is proposed.

They continue to assault those who create jobs on the very day that the President is having a conference on jobs. They want to seem to be doing something positive while really doing great damage to our economy and hardworking Americans.

Mr. Speaker, I would like to refer to an article from *The Wall Street Journal* of 31 March 2009 and place it in the RECORD.

[From the *Wall Street Journal*, Mar. 31, 2009]  
NIGHT OF THE LIVING DEATH TAX

Lawrence Summers, President Obama's chief economic adviser, declared recently that "Let's be very clear: There are no, no tax increases this year. There are no, no tax increases next year." Oh yes, yes, there are. The President's budget calls for the largest increase in the death tax in U.S. history in 2010.

The announcement of this tax increase is buried in footnote 1 on page 127 of the President's budget. That note reads: "The estate tax is maintained at its 2009 parameters." This means the death tax won't fall to zero next year as scheduled under current law, but estates will be taxed instead at up to 45%, with an exemption level of \$3.5 million (or \$7 million for a couple). Better not plan on dying next year after all.

This controversy dates back to George W. Bush's first tax cut in 2001 that phased down the estate tax from 55% to 45% this year and then to zero next year. Although that 10-year tax law was to expire in 2011, meaning that the death tax rate would go all the way back to 55%, the political expectation was that once the estate tax was gone for even one year, it would never return.

And that is no doubt why the Obama Administration wants to make sure it never hits zero. It doesn't seem to matter that the

vast majority of the money in an estate was already taxed when the money was earned. Liberals counter that the estate tax is "fair" because it is only paid by the richest 2% of American families. This ignores that much of the long-term saving and small business investment in America is motivated by the ability to pass on wealth to the next generation.

The importance of intergenerational wealth transfers was first measured in a National Bureau of Economic Research study in 1980. That study looked at wealth and savings over the first three-quarters of the 20th century and found that "intergenerational transfers account for the vast majority of aggregate U.S. capital formation." The co-author of that study was ... Lawrence Summers.

Many economists had previously believed in "the life-cycle theory" of savings, which postulates that workers are motivated to save with a goal of spending it down to zero in retirement. Mr. Summers and coauthor Laurence Kotlikoff showed that patterns of savings don't validate that model; they found that between 41% and 66% of capital stock was transferred either by bequests at death or through trusts and lifetime gifts. A major motivation for saving and building businesses is to pass assets on so children and grandchildren have a better life.

What all this means is that the higher the estate tax, the lower the incentive to reinvest in family businesses. Former Congressional Budget Office director Douglas Holtz-Eakin recently used the Summers study as a springboard to compare the economic cost of a 45% estate tax versus a zero rate. He finds that the long-term impact of eliminating the death tax would be to increase small business capital investment by \$1.6 trillion. This additional investment would create 1.5 million new jobs.

In other words, by raising the estate tax in the name of fairness, Mr. Obama won't merely bring back from the dead one of the most despised of all federal taxes, and not merely splinter many family-owned enterprises. He will also forfeit half the jobs he hopes to gain from his \$787 billion stimulus bill. Maybe that's why the news of this unwise tax increase was hidden in a footnote.

Mr. Speaker, "Lawrence Summers, President Obama's chief economic adviser, declared recently that 'Let's be very clear: There are no, no tax increases this year. There are no, no tax increases next year.' Oh, yes, yes, there are. The President's budget calls for the largest increase in the death tax in U.S. history in 2010.

"The announcement of this tax increase was buried in footnote 1 on page 127 of the President's budget. That note reads: 'The estate tax is maintained at its 2009 parameters.' This means the death tax won't fall to zero next year as scheduled under current law, but estates will be taxed instead at up to 45 percent, with an exemption level of \$3.5 million . . . Better not plan on dying next year after all."

I know we are not discussing the President's budget here today with that bill, but I think this shows that they are trying every way possible to reinstitute what is probably the most hated tax in the United States. The American people understand this is not a fair tax, whether they are hit by it or not.

I want to read another piece from *The Wall Street Journal* article. "The

importance of intergenerational wealth transfers was first measured in a National Bureau of Economic Research study in 1980. That study looked at wealth and savings over the first three-quarters of the 20th century and found that 'intergenerational transfers account for the vast majority of aggregate U.S. capital formation.' The co-author of that study was . . . Lawrence Summers."

Mr. Summers understood this when he was first at Harvard.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield 30 more seconds.

Ms. FOXX. I appreciate the gentleman yielding me the additional time.

Mr. Speaker, this is not good for the American people at a time when we need to be creating jobs not destroying jobs. Again, the President wanted to create jobs with the stimulus. He has created no jobs with it. This is going to destroy even more jobs. This is the wrong direction to be going.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

□ 1100

Mr. GOHMERT. Mr. Speaker, I do agree with my friend from Colorado: we all should be paying our fair share. However, this Congress has said in the past maybe 39 percent should not pay their fair share. They won't pay any income tax. And this administration apparently has indicated he wants to take that at least to 44 percent of Americans not paying their fair share.

But what the death tax does is go after people who have paid at the highest levels of income tax throughout their lives and yet have still been frugal enough to build a business, build a farm, and then when they're dead, come in and take it away from them. They've paid their fair share.

Even though the argument is made that this won't affect that many people, that not that many people pay the estate tax. When something is not right, you need to draw the line. That is what the Founders did. They said principle is worth fighting for, and we will not give in to these confiscatory practices of the monarch in Great Britain. So we had a revolution.

Now, after someone dies, and someone comes in and steals from them, we consider that, in most societies, reprehensible. That is just despicable. I have sentenced people personally to prison for doing that. But when the government comes in, because we have the power to pass laws and legalize theft that otherwise would be considered reprehensible, it's okay. It is not okay. It is not okay.

I have a personal family situation. A great aunt and her husband, who predeceased her, built through generations a family farm. They were land rich, but money poor. They had employees. They

had things going on. They had a very active ranch. But when she died, the estate tax was 55 percent. And within the year, while the estate was being settled, the FDIC dumped land. The \$5 million estate fell in value. Land that was valued at \$2,000 at her death became valued at \$700 an acre. The IRS came in and sold every acre of my great aunt's land, her wonderful home where she had a will, she promised things to her direct descendants, we all had to gather at an auction the IRS forced to buy things from my great aunt. This is morally wrong.

And Jesus never advocated to the government, Go steal. He said, You do it, do it with your own money. Don't go steal it from somebody else. And that's why this should not pass.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to my distinguished friend from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Speaker, this debate today from every angle reminds me, once again, reinforces how proud I am to be a Texan and how proud I am to be a conservative Republican. Because the contrast is just astonishing, to think that today the Democratic President at the White House is holding a jobs summit and breakout sessions trying to figure out how to create jobs while his Democrat friends in Congress are creating a permanent death tax.

Raising taxes, once again, is the standard reaction of this majority that has controlled Congress since 2007. In my first year in 2001, I was here, proud to vote for the permanent repeal of the death tax, taking it to zero forever. The Democrats in the Senate prevented us from making that permanent by blocking it with 60 votes. And that is often a source of confusion. People need to remember, they often ask me, Why isn't the death tax repeal permanent? It is because Democrats in the Senate prevented us from getting 60 votes which was required to make it permanent. So we were stuck with this 10-year window.

And the reaction of the Democrat majority in Congress today is to create a permanent death tax and try to pitch it as a "tax reduction." It's absurd. It's sad. It illustrates clearly how blind the Democrat majority is to the fundamental truths of job creation. We in Texas understand that to create jobs you cut taxes. You pass tort reform to prevent frivolous lawsuits. We brought doctors into Texas by giving doctors medical malpractice caps and limits on lawsuits against doctors. People from all over the country have moved to Texas because of the number of jobs that we create with a low-tax environment and with litigation reform.

Mr. Speaker, these are self-evident truths. You create jobs by cutting taxes, by protecting businesses from excessive litigation and regulation. This is why I'm again reminded why I'm so proud to be a conservative Republican. I try not to use that word

often. But today it illustrates why we are going to have a revolution next year. In 2010, there is going to be a revolution at the ballot box, and we will have a conservative majority in this House because of votes like this to raise taxes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it's my pleasure to yield 2 minutes to my distinguished friend from Louisiana (Mr. SCALISE).

Mr. SCALISE. Mr. Speaker, I want to thank my colleague from Florida for his leadership on this.

Mr. Speaker, the American people across the country are asking, Where are the jobs? And all they see from this Democrat-controlled Congress is more bills that will actually kill jobs and run jobs out of the country. And make no mistake about it: the death tax will kill more jobs in this country.

To place a permanent 45 percent tax on death is immoral. Think about this: the small businesses in our country are hit the hardest. The actual job creators in this country are hit the hardest by the death tax. When a family member dies, the biggest decision they make after that death should not be about how they have to sell their family business because they can't afford to pay the taxes upon death. And that's what happens under this death tax. And here they have a bill to enshrine the tax at 45 percent.

Now, if anyone wonders where are the jobs, as the President is holding a jobs summit, while unemployment smashed through the 10 percent mark earlier this year, all they have to do is look at the policies President Obama keeps bringing up. It started with the stimulus bill that didn't create jobs and just added more debt to our children and grandchildren. And then they brought the policies like this energy tax, the cap-and-trade energy tax, and then the government takeover of health care. And here we are today debating a bill that is going to enshrine a 45 percent tax on death. And Speaker PELOSI wouldn't even allow us to bring an amendment to the floor that would repeal it.

There is a clear contrast between the two parties on this issue. When we are in the majority, we will repeal the death tax, and here they've got a bill that will enshrine it at 45 percent permanently.

Taxation without respiration should not be the law of the land.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding. I could talk about a lot of bad things about this tax and this bill. I could talk about how inefficient it is, how it costs almost as much to collect as it raises in revenue. I could talk about how most of the income that would be taxed or most of the wealth would be taxed here has already been taxed once. I could talk about the morality of saying that in this country some people

are allowed to leave the fruits of a lifetime of work to their children, and other people are not allowed to leave the fruits of their lifetime work to their children.

But there are two other things I want to emphasize in this short time here this morning. One is that the one thing we need more than anything else in this country right now are jobs. And this bill will kill jobs. Why? Because when people are subject to this tax, they spend all their time, effort and money, and as a CPA who worked on this at one time I have seen it up front and close and personal, reducing the value of their wealth so they can reduce the tax. That does not create jobs.

Without this tax, if the tax were eliminated, those people would continue to be employing that wealth in income-producing efforts in the sorts of things that create jobs. But also this particular bill that's before us today is not indexed for inflation.

Now let's see. What other tax do we have that's not indexed for inflation? Oh, yeah, the alternative minimum tax, which when that was passed, this House was told, well, it is only going to tax 139 taxpayers. Don't you worry about it. It's just to get the very wealthy, just the really bad people. But now because it's not indexed for inflation, that tax now, instead of 139 people, hits 25 million people. And this death tax, not indexed for inflation, will do exactly the same thing, particularly when the inflation that the Obama administration is heading us towards comes together.

This is a bad bill. Defeat it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to my distinguished friend from Texas, the Ways and Means Subcommittee on Trade ranking member, Mr. BRADY.

Mr. BRADY of Texas. Mr. Speaker, I'm proud to be a co-chairman of the Death Tax Coalition in the U.S. House, those of us who understand the destructive levels of this tax on our family farms and small businesses in America.

Can you imagine working your whole life risking your money and your time working your weekends to either build your family farm or to start your business only to find out when you die, Uncle Sam swoops in and takes nearly half of all you spent a lifetime building up, takes half of what you had hoped to give to your children and grandchildren?

That is the death tax in America. It is the wrong tax. It is the wrong people at exactly the wrong time.

The only real solution to it is to fully and permanently repeal it, to solve it once and for all, to give family farms, small businesses, women and minority-owned businesses the peace of mind of knowing that they can hand down to their children the nest egg they have spent a life of toil, risk and taxation to build up.

That is what Republicans support. That is what we are going to vote for

today. And it is time to bury the death tax once and for all.

As they set the rules for this debate today, we naively think that Congress is a debate of ideas, the best ideas win. Unfortunately, the American public won't get to hear that debate or have that choice today because the Democrat majority did not allow an amendment, a bipartisan amendment, a better idea in how we help our family farms and small businesses survive.

This amendment was offered, a bipartisan one, by Congresswoman SHELLEY BERKLEY of Nevada, myself, Congressman ARTUR DAVIS of Alabama, and Congressman DEVIN NUNES of California. And it's an amendment supported by the groups that are most damaged by this death tax, small businesses, family farms, local printers and grocers and others. And what it did is provide a \$5 million exemption for the death tax and a below-35 percent tax rate in permanence.

This is an amendment to a bill that has strong bipartisan support. It has 37 cosponsors, and it has strong support from around the country. So when people say today, this is the best we can do? No, it's not.

It's not the best we can do. Given a choice, we have to do better for our family farms and small businesses. And there is no support for the overall bill from small businesses, family farms, from our local retailers, none at all. So rather than place on the floor a bipartisan bill that had broad support, they chose to offer a partisan bill that has no support.

It is time to solve this problem. It's time to bury the death tax once and for all. It's time to hear better ideas on this floor that can help create jobs in America, help generations go forward, and reward the people who work the hardest, work the longest, and work the smartest in hopes of handing nest eggs down to their children. The death tax is not just unfair; it is immoral and un-American.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 1½ minutes to my dear friend from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, unfortunately, we all know the sad news that under this administration and this Congress, our Nation has the worst, the worst unemployment rate in a generation. Over 3½ million of our fellow countrymen have lost their jobs since President Obama has come into office.

So what have our friends on the other side of the aisle tried to do? Well, they have tried to spend their way into job creation with a \$1.1 trillion government stimulus plan, a \$410 billion omnibus spending plan, and a threatened trillion dollar takeover of our health care system plan. Well, that didn't get us any jobs.

So they have tried to borrow their way into prosperity. Now we have the first trillion-dollar deficit in our Nation's history, a spending plan to triple, triple the national debt in the next 10 years.

So borrowing didn't work. Spending didn't work.

So here's the latest plan, Mr. Speaker. Let's have a perpetual plan to tax people when they die. Maybe that will create jobs in the economy.

Mr. Speaker, it doesn't work. It doesn't work. As the gentleman from Texas said, it is time to put the death tax to death. People have already paid. We will not start new businesses when you tax small businesses. It's time to get rid of the death tax once and for all.

It's an unfair tax. It ought to be an illegal tax.

Mr. LINCOLN DIAZ-BALART of Florida. I thank you, Mr. Speaker, for the courtesy, and my friend, Mr. POLIS, for his courtesy and all those who have participated in this debate. And I think the essence of the contrast of ideas that has been shown today is that we on this side of the aisle believe that we should be focused like a laser on job creation. I think Mr. HENSARLING said it very well, Will this legislation create jobs?

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We don't think so. As a matter of fact, we are convinced that it will continue to take the country in the wrong direction with regard to employment. Unemployment continues to rise, and the majority brings more regulation, more taxes, and further stifles small business at a time when we should be encouraging jobs.

Mr. Speaker, we believe, as the overwhelming majority of the American people do, that Members should have the ability to read bills before they vote on them. It really shouldn't be an issue because that was promised by the distinguished Speaker during the campaign when the majority was campaigning to take the majority. And even on her Web site, you'll read Members should have at least 24 hours to examine bills before floor consideration.

But that hasn't been the case. I remember when the Rules Committee—at 3 in the morning we were handed a 900-page amendment to the so-called cap-and-trade energy legislation that we had to vote on simply hours afterward. And the American people were rightfully outraged about examples such as that. That's why there's legislation that's been filed by a bipartisan group that has 182 Members that have signed, right up there, right in front of you, Mr. Speaker, a discharge petition to have legislation brought to the floor requiring at least 72 hours before the legislation has to be voted on by this House.

So that's why today I'm asking for a "no" vote on the previous question so that we can consider that legislation, bipartisan legislation by Congressmen BAIRD and CULBERSON. It's not going to interrupt the death tax debate, the estate tax bill, because if the motion passes, the motion I'm making provides for separate consideration of the

Baird-Culberson bill within 3 days. So we can vote on the estate tax bill and then, once we're done, consider that legislation requiring the 72 hours.

I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, I want to begin by addressing some of the misconceptions and inaccuracies in the arguments that have been made on the other side of the aisle.

First, I'd like to address some made by the gentleman from Texas that this is a tax on those who have paid the highest tax rates throughout their lives. I'd like to dispute this notion. Many of the people who have accumulated great wealth in this country have, throughout their lives, paid the capital gains tax rather than the income tax rate. I, for one, and I'm, I think, the fourth- or fifth-wealthiest Member of this body—I've accumulated some degree of wealth with my success in the Internet sector, starting companies, selling them. I've paid the capital gains tax. That is a 15 percent tax, not a 39.6 or a 35 percent tax.

In a moment we will hear some quotes from Mr. Buffett, Mr. Gates and Mr. Soros, three wealthy Americans, all supporters of the estate tax. They have also accumulated their wealth and have paid the capital gains rate. In the case of, for instance, Bill Gates, the wealthiest American, he has paid a rate substantially below 15 percent, due to his charitable contributions. The rate that Mr. Gates has paid is probably somewhere in the 10–12 percent tax range.

So again, I have paid less percentage tax than members of my staff here in Congress that earn \$50,000, \$60,000 a year. They pay a higher tax rate. So it's inaccurate to say that those who are hit with the estate tax have paid the highest tax rate throughout their lives. There might be some movie stars, sports stars, high-wage earners that have been paying the high-income margins, highest marginal income tax rate throughout their lives. But the majority of wealth is accumulated on the capital side and has been subject to the capital gains rate, which had been 20 percent, more recently, 15 percent, and scheduled to return to 20 percent; regardless, well below the highest marginal rate.

I'd also like to address a remark made by my colleague from North Carolina, Dr. FOXX. She called this the biggest increase ever in the inheritance tax rate. Again, this is a decrease, a decrease in the inheritance tax. Yes, there is a 1-year effect. For the year 2010 alone, it's an increase. For every other year it's a decrease. Instead of 55

percent and \$1 million, every dollar above \$1 million would be taxed at 55 percent if we don't pass this in the year 2011 and beyond. We are reducing that.

This is a substantial decrease one of the largest decreases in the inheritance tax rate, to 45 percent from 55 percent in 2011 and beyond. And we're increasing the deduction. We're starting that at a \$3.5 million estate—that's a \$7 million estate for a couple that passes away, instead of a \$1 million deduction, to be clear. I'd further like to make it clear that repealing the estate tax and replacing it with a capital gains tax on the increase in basis would be a tax increase, as proposed by my colleagues on the other side of the aisle. This would be a tax increase for upper middle class families and would actually result in many families losing their family businesses.

If you have a \$3 million family business, family farm, under the Democratic proposal they pay zero tax. Under the Republican proposal, a \$3 million family estate or farm with a very low basis, they started it maybe with \$100,000 in the 1950s, so that's a \$3 million gain, that would be subject to \$450,000 capital gains tax. At 20 percent it would be over \$600,000 in taxes. That could result in the family losing the farm or losing the small business. Under the Democratic proposal we allow families to keep family farms and small businesses in the family.

Mr. Speaker, this bill is one of many steps that Congress must take towards an equitable Tax Code. The bill highlights Democratic commitments to fairness by making permanent the current estate tax exemption of \$3.5 million, \$7 million total, at a maximum tax rate of 45 percent. Opponents of this bill may say the estate tax should be repealed. Well, that's supporting a debt finance tax cut of \$1.3 trillion.

Yes, repealing the estate tax in its entirety would result in an increase in the deficit of \$1.3 trillion. That's \$1 trillion in lost revenue and \$277 billion in increased interest payments on our growing national debt. Does that sound like fiscal responsibility? The only result of repealing the estate tax would be that the .25 percent, quarter of 1 percent, of the wealthiest American families will pay a small estate tax, while other Americans won't have to suffer from increased debt.

Mr. Speaker, let's be honest with the American people. The estates of those 99.75 percent of Americans will continue to be tax free. As for those .25 percent that are subject to the tax, such as Bill Gates' estate, such as my own, we understand that "the government that protects our business activities, the traditions that enable us to rely on certain things happening, that's what creates capital and enables net worth to increase."

Those are Bill Gates' words, not mine. But I strongly agree. In Warren Buffett's opposition to the repeal of the estate tax, he said that the repeal of the estate tax would be akin to "choos-

ing the 2020 Olympic team by picking the eldest sons of the gold medal winners in the 2000 Olympics" because "without the estate tax, you in effect will have an aristocracy of wealth, which means you pass down the ability to command the resources of the nation based on heredity rather than merit."

America is, and should be, a meritocracy. Estate tax helps prevent a permanent aristocracy of the wealthy from arising in this country. Some opponents of the estate tax claim that it forces families to hand over half of their wealth to the government. But the facts simply don't support this claim. The truth is that few estates pay any estate tax whatsoever, and those that do, pay less than 20 percent of the value of their estate. We also know that the claims of rampant liquidation of farms is completely untrue. In fact, the American Farm Bureau Federation acknowledged to The New York Times that it couldn't find a single example of a farm to substantiate the claim, even when the estate tax was higher, 55 percent rather than the 45 percent it is today.

I'd like to give a quote from the president of the National Farmers Union, who says, "Family farmers and ranchers are insulted by those who use farmers as the reason for eliminating estate taxes." I'd also like to give a quote from George Soros. George Soros said, "The estate tax is the least damaging of all our taxation because it does not interfere with wealth creation. It increases social equality. It is so obvious estate taxation is a valuable taxation, and we should keep it."

Again, on a revenue neutral basis, I would much rather pay \$1,000 in tax after I die than before, when I'm using that capital to create value and jobs, or at least I was before I got to Congress.

Mr. Speaker, our choice here is clear. We can pass this bill which will remove the impact of the estate tax from 99.75 percent of Americans and give those who will pay this tax a substantially larger deductible. We can make sure that family businesses and family farms won't be subject to onerous taxation. Or we can increase the deficit by over \$1 trillion and increase taxes for estates of \$2 million, \$3 million, \$4 million with sizable capital gains within those estates.

Once again, I thank Chairman RANGEL, the members of the Committee on Ways and Means and their staffs, as well as Representative POMEROY, for bringing this important legislation to the floor. In America, it's not a sin to be rich, nor is it a crime to die rich. This bill gives our Nation's wealthiest families the ability to know exactly what their obligation to the Nation that fostered their wealth will be. And it is fair, and it is just.

Mr. Speaker, I'd ask my colleagues to join me on the side of facts, equity, and the 99 percent of Americans who will never pay this tax and who wish that

they were lucky enough to be successful enough to pay this tax, and remind them that a “no” vote is a vote against these principles.

I ask my colleagues to vote “yes” on the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009. I urge a “yes” vote on the previous question, and I urge a “yes” vote on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 941 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, insert the following new section:

SEC. 3. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(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. POLIS. 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 ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. 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 941, if ordered; agreeing to the Speaker's approval of the Journal, if ordered; and suspending the rules on House Resolution 28.

The vote was taken by electronic device, and there were—yeas 228, nays 187, not voting 19, as follows:

[Roll No. 923]

YEAS—228

|             |             |                |
|-------------|-------------|----------------|
| Abercrombie | Becerra     | Boswell        |
| Ackerman    | Berkley     | Boucher        |
| Adler (NJ)  | Berman      | Boyd           |
| Altmire     | Berry       | Brady (PA)     |
| Andrews     | Bishop (GA) | Braley (IA)    |
| Baca        | Blumenauer  | Bright         |
| Baldwin     | Bocchieri   | Brown, Corrine |
| Bean        | Boren       | Butterfield    |

|                 |                  |                  |
|-----------------|------------------|------------------|
| Capps           | Hoyer            | Peters           |
| Cardoza         | Inlee            | Peterson         |
| Carnahan        | Israel           | Pingree (ME)     |
| Carney          | Jackson (IL)     | Polis (CO)       |
| Carson (IN)     | Jackson-Lee      | Pomeroy          |
| Castor (FL)     | (TX)             | Price (NC)       |
| Chandler        | Johnson (GA)     | Quigley          |
| Chu             | Johnson, E. B.   | Rahall           |
| Clarke          | Kagen            | Rangel           |
| Clay            | Kanjorski        | Reyes            |
| Cleaver         | Kennedy          | Richardson       |
| Clyburn         | Kildee           | Rodriguez        |
| Cohen           | Kilpatrick (MI)  | Ross             |
| Connolly (VA)   | Kilroy           | Rothman (NJ)     |
| Conyers         | Kind             | Roybal-Allard    |
| Cooper          | Kirkpatrick (AZ) | Ruppersberger    |
| Costa           | Kissell          | Rush             |
| Costello        | Klein (FL)       | Salazar          |
| Courtney        | Kucinich         | Sánchez, Linda   |
| Crowley         | Langevin         | T.               |
| Cuellar         | Larsen (WA)      | Sanchez, Loretta |
| Cummings        | Larson (CT)      | Sarbanes         |
| Dahlkemper      | Lee (CA)         | Schakowsky       |
| Davis (AL)      | Levin            | Schauer          |
| Davis (CA)      | Lewis (GA)       | Schiff           |
| Davis (IL)      | Lipinski         | Schrader         |
| Davis (TN)      | Loeb sack        | Schwartz         |
| DeFazio         | Lofgren, Zoe     | Scott (GA)       |
| DeGette         | Lowey            | Scott (VA)       |
| Delahunt        | Lujan            | Serrano          |
| DeLauro         | Lynch            | Sestak           |
| Dicks           | Maffei           | Shea-Porter      |
| Dingell         | Maloney          | Sherman          |
| Doggett         | Markey (CO)      | Shuler           |
| Doyle           | Markey (MA)      | Sires            |
| Driehaus        | Marshall         | Skelton          |
| Edwards (MD)    | Massa            | Slaughter        |
| Edwards (TX)    | Matheson         | Smith (WA)       |
| Ellison         | Matsui           | Snyder           |
| Ellsworth       | McCarthy (NY)    | Space            |
| Engel           | McCollum         | Speier           |
| Eshoo           | McDermott        | Spratt           |
| Etheridge       | McIntyre         | Stark            |
| Farr            | McMahon          | Stupak           |
| Fattah          | McNerney         | Tanner           |
| Filner          | Meek (FL)        | Thompson (CA)    |
| Foster          | Meeks (NY)       | Thompson (MS)    |
| Frank (MA)      | Michaud          | Tierney          |
| Fudge           | Miller (NC)      | Titus            |
| Garamendi       | Miller, George   | Tonko            |
| Grayson         | Mollohan         | Towns            |
| Green, Al       | Moore (KS)       | Tsongas          |
| Green, Gene     | Moore (WI)       | Van Hollen       |
| Grijalva        | Murphy (CT)      | Velázquez        |
| Gutierrez       | Murphy (NY)      | Vílosky          |
| Hall (NY)       | Murphy, Patrick  | Walz             |
| Halvorson       | Murtha           | Wasserman        |
| Hare            | Nadler (NY)      | Schultz          |
| Harman          | Napolitano       | Waters           |
| Hastings (FL)   | Neal (MA)        | Watson           |
| Heinrich        | Oberstar         | Watt             |
| Herseth Sandlin | Obey             | Waxman           |
| Higgins         | Olver            | Weiner           |
| Hinchey         | Ortiz            | Welch            |
| Hinojosa        | Owens            | Wexler           |
| Hodes           | Pallone          | Wilson (OH)      |
| Holden          | Pascrell         | Woolsey          |
| Holt            | Pastor (AZ)      | Wu               |
| Honda           | Payne            | Yarmuth          |

NAYS—187

|              |                 |               |
|--------------|-----------------|---------------|
| Aderholt     | Buyer           | Fallin        |
| Akin         | Calvert         | Flake         |
| Alexander    | Camp            | Fleming       |
| Austria      | Campbell        | Forbes        |
| Bachmann     | Cantor          | Fortenberry   |
| Bachus       | Cao             | Fox           |
| Baird        | Capito          | Franks (AZ)   |
| Barrett (SC) | Carter          | Frelinghuysen |
| Bartlett     | Cassidy         | Galleghy      |
| Barton (TX)  | Castle          | Garrett (NJ)  |
| Biggart      | Chaffetz        | Gohmert       |
| Bilbray      | Childers        | Goodlatte     |
| Bilirakis    | Coble           | Granger       |
| Bishop (NY)  | Coffman (CO)    | Graves        |
| Blackburn    | Cole            | Griffith      |
| Blunt        | Conaway         | Guthrie       |
| Boehner      | Crenshaw        | Hall (TX)     |
| Bonner       | Culberson       | Harper        |
| Bono Mack    | Davis (KY)      | Hastings (WA) |
| Boozman      | Deal (GA)       | Heller        |
| Boustany     | Dent            | Hensarling    |
| Brady (TX)   | Diaz-Balart, L. | Herger        |
| Broun (GA)   | Diaz-Balart, M. | Hill          |
| Brown (SC)   | Donnelly (IN)   | Himes         |
| Brown-Waite, | Dreier          | Hoekstra      |
| Ginny        | Duncan          | Hunter        |
| Buchanan     | Ehlers          | Inglis        |
| Burton (IN)  | Emerson         | Issa          |

Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kaptur  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Kosmas  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon

McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paul  
Paulsen  
Pence  
Perriello  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen

Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

NOT VOTING—19

Arcuri  
Barrow  
Bishop (UT)  
Burgess  
Capuano  
Gerlach  
Giffords

Gingrey (GA)  
Gonzalez  
Gordon (TN)  
Hirono  
Lucas  
McGovern  
Melancon

□ 1153

Ms. KOSMAS and Messrs. FRANKS of Arizona and LUETKEMEYER changed their vote from “yea” to “nay.”

Mr. MOORE of Kansas changed his vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Ms. GIFFORDS. Mr. Speaker, on rollcall No. 923 I was unable to arrive in time to cast my vote. Had I been present, I would have voted “yea.”

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.

RECORDED VOTE

Ms. MATSUI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 192, not voting 19, as follows:

[Roll No. 924]

AYES—223

Abercrombie  
Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baldwin  
Bean  
Becerra  
Berkley  
Berman

Berry  
Bishop (GA)  
Blumenauer  
Boccheri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Bright  
Brown, Corrine  
Butterfield

Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn

Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Coutello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeGette  
DeLaHunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hinchev  
Hinojosa  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kanjorski

Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kissell  
Klein (FL)  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Payne  
Perlmutter  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kanjorski

Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Tanner  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

NOES—192

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Baird  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Bilirakis  
Bishop (NY)  
Blackburn  
Blunt  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao

Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Dreier  
Duncan  
Ehlers  
Ellsworth  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)

Giffords  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Himes  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kaptur  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kline (MN)  
Kosmas

Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)

Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paul  
Paulsen  
Pence  
Perriello  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt

Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

NOT VOTING—19

Barrow  
Bishop (UT)  
Boehner  
Braley (IA)  
Burgess  
Capuano  
DeFazio

Gerlach  
Gonzalez  
Gordon (TN)  
Hirono  
Kagen  
Lucas  
McGovern

Melancon  
Moran (VA)  
Sutton  
Welch  
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1201

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.

PERSONAL EXPLANATION

Mr. GERLACH. Madam Speaker, Unfortunately, on Thursday, December 3, 2009, I missed two recorded votes on the House floor. Had I been present, I would have voted “nay” on rollcall 923 and “no” on rollcall 924.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker’s approval of the Journal, which the Chair will put de novo.

The question is on the Speaker’s approval of the Journal.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 169, answered “present” 1, not voting 14, as follows: