

S. 3560. An act to amend title XIX of the Social Security Act to provide additional funds for the qualifying individual (QI) program, and for other purposes.

□ 1815

### CALLING CARD CONSUMER PROTECTION ACT

Mr. RUSH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3402) to require accurate and reasonable disclosure of the terms and conditions of prepaid telephone calling cards and services, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Calling Card Consumer Protection Act".

#### SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "prepaid calling card" has the meaning given the term "prepaid calling card" by section 64.5000(a) of the Federal Communications Commission's regulations (47 C.F.R. 64.5000(a)). Such term shall also include calling cards that use VoIP service or a successor protocol. Such term shall also include an electronic or other mechanism that allows users to pay in advance for a specified amount of calling. Such term shall not include—

(A) calling cards or other rights of use that are provided for free or at no additional cost as a promotional item accompanying a product or service purchased by a consumer;

(B) any card, device, or other right of use, the purchase of which establishes a customer-carrier relationship with a provider of wireless telecommunications service or wireless hybrid service, or that provides access to a wireless telecommunications service or wireless hybrid service account wherein the purchaser has a pre-existing relationship with the wireless service provider; or

(C) payphone service, as that term is defined in section 276(d) of the Communications Act of 1934 (47 U.S.C. 276(d)).

(3) The term "prepaid calling card provider" has the meaning given the term "prepaid calling card provider" by section 64.5000(b) of the Federal Communications Commission's regulations (47 C.F.R. 64.5000(b)). Such term shall also include—

(A) a provider of a prepaid calling card that uses VoIP service or a successor protocol; and

(B) a provider of a prepaid calling card that allows users to pay in advance for a specified amount of minutes through an electronic or other mechanism.

(4) The term "prepaid calling card distributor" means any entity or person that purchases prepaid calling cards from a prepaid calling card provider or another prepaid calling card distributor and sells, re-sells, issues, or distributes such cards to one or more distributors of such cards or to one or more retail sellers of such cards.

(5) The term "wireless hybrid service" is defined as a service that integrates both commercial mobile radio service (as defined by section 20.3 of the Federal Communications Commission's regulations (47 C.F.R. 20.3)) and VoIP service.

(6) The term "VoIP service" has the meaning given the term "interconnected Voice

over Internet protocol service" by section 9.3 of the Federal Communications Commission's regulations (47 C.F.R. 9.3). Such term shall include any voice calling service that utilizes a voice over Internet protocol or any successor protocol in the transmission of the call.

(7) The term "fees" includes all charges, fees, taxes, or surcharges applicable to a prepaid calling card that are—

(A) required by Federal law or regulation or order of the Federal Communications Commission or by the laws and regulations of any State or political subdivision of a State; or

(B) expressly permitted to be assessed under Federal law or regulation or order of the Federal Communications Commission or under the laws and regulations of any State or political subdivision of a State.

(8) The term "additional charge" means any charge assessed by a prepaid calling card provider or prepaid calling card distributor for the use of a prepaid calling card, other than a fee or rate.

(9) The term "international preferred destination" means one or more specific international destinations named on a prepaid calling card or on the packaging material accompanying a prepaid calling card.

#### SEC. 3. REQUIRED DISCLOSURES OF PREPAID CALLING CARDS.

(a) REQUIRED DISCLOSURE.—Any prepaid calling card provider or prepaid calling card distributor shall disclose clearly and conspicuously the following information relating to the terms and conditions of the prepaid calling card:

(1) The name of the prepaid calling card provider and such provider's customer service telephone number and hours of service.

(2)(A) The number of domestic interstate minutes available from the prepaid calling card and the number of available minutes for all international preferred destinations served by the prepaid calling card at the time of purchase; or

(B) the dollar value of the prepaid calling card, the domestic interstate rate per minute provided by such card, and the applicable per minute rates for all international preferred destinations served by the prepaid calling card at the time of purchase.

(3)(A) The applicable per minute rate for all individual international destinations served by the card at the time of purchase; or

(B) a toll-free customer service number and website (if the provider maintains a website) where a consumer may obtain the information described in subparagraph (A) and a statement that such information may be obtained through such toll-free customer service number and website.

(4) The following terms and conditions pertaining to, or associated with, the use of the prepaid calling card:

(A) Any applicable fees associated with the use of the prepaid calling card.

(B) A description of any additional charges associated with the use of the prepaid calling card and the amount of such charges.

(C) Any limitation on the use or period of time for which the promoted or advertised minutes or rates will be available.

(D) Applicable policies relating to refund, recharge, and any predetermined decrease in value of such card over a period of time.

(E) Any expiration date applicable to the prepaid calling card or the minutes available with such calling card.

(b) LOCATION OF DISCLOSURE AND LANGUAGE REQUIREMENT.—

(1) CLEAR AND CONSPICUOUS.—

(A) CARDS.—The disclosures required under subsection (a) shall be printed in plain English language (except as provided in paragraph (2)) in a clear and conspicuous

manner and location on the prepaid calling card. If the card is enclosed in packaging that obscures the disclosures on the card, such disclosures also shall be printed on the outside packaging of the card.

(B) ONLINE SERVICES.—In addition to the requirements under subparagraph (A), in the case of a prepaid calling card that consumers purchase via the Internet, the disclosures required under subsection (a) shall be displayed in plain English language (except as provided in paragraph (2)) in a clear and conspicuous manner and location on the Internet website that the consumer must access prior to purchasing such card.

(C) ADVERTISING AND OTHER PROMOTIONAL MATERIAL.—Any advertising for a prepaid calling card that contains any representation, expressly or by implication, regarding the dollar value, the per minute rate, or the number of minutes provided by the card shall include in a clear and conspicuous manner and location all the disclosures described in subsection (a).

(2) FOREIGN LANGUAGES.—If a language other than English is prominently used on a prepaid calling card, its packaging, or in point-of-sale advertising, Internet advertising, or promotional material for such card, the disclosures required by this section shall be disclosed in that language on such card, packaging, advertisement, or promotional material.

(c) MINUTES ANNOUNCED, PROMOTED, OR ADVERTISED THROUGH VOICE PROMPTS.—Any information provided to a consumer by any voice prompt given to the consumer at the time the consumer uses the prepaid calling card relating to the remaining value of the calling card or the number of minutes available from the calling card shall be accurate, taking into account the application of the fees and additional charges required to be disclosed under subsection (a).

(d) DISCLOSURES REQUIRED UPON PURCHASE OF ADDITIONAL MINUTES.—If a prepaid calling card permits a consumer to add value to the card or purchase additional minutes after the original purchase of the prepaid calling card, any changes to the rates or additional charges required to be disclosed under subsection (a) shall apply only to the additional minutes to be purchased and shall be disclosed to the consumer before the completion of such purchase.

#### SEC. 4. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) UNFAIR AND DECEPTIVE ACT OR PRACTICE.—A violation of section 3 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) AUTHORITY OF THE COMMISSION.—The Commission shall enforce this Act in the same manner and by the same means as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. Notwithstanding any provision of the Federal Trade Commission Act or any other provision of law and solely for purposes of this Act, common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and any amendment thereto shall be subject to the jurisdiction of the Commission.

(c) RULEMAKING AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Commission shall, in consultation with the Federal Communications Commission and in accordance with section 553 of title 5, United States Code, issue regulations to carry out this Act. In promulgating such regulations, the Commission shall—

(1) take into consideration the need for clear disclosures that provide for easy comprehension and comparison by consumers, taking into account the size of prepaid calling cards; and

(2) give due consideration to the views of the Federal Communications Commission with regard to matters for which that Commission has particular expertise and authority and shall take into consideration the views of States.

In promulgating such regulations, the Commission shall not issue regulations that otherwise affect the rates, terms, and conditions of prepaid calling cards.

(d) SAVINGS PROVISION.—Nothing in this Act shall be construed to limit the authority of the Commission under any other provision of law. Except to the extent expressly provided in this Act, nothing in this Act shall be construed to alter or affect the exemption for common carriers provided by section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)). Nothing in this Act is intended to limit the authority of the Federal Communications Commission.

#### SEC. 5. STATE ENFORCEMENT.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State, a State utility commission, or other consumer protection agency has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this Act, the State utility commission or other consumer protection agency, if authorized by State law, or the State, as *parens patriae*, may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction to—

- (A) enjoin that practice;
- (B) enforce compliance with this Act;
- (C) obtain damage, restitution, or other compensation on behalf of residents of the State; or
- (D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE TO THE COMMISSION.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the State shall provide to the Commission—

- (i) written notice of the action; and
  - (ii) a copy of the complaint for the action.
- (B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by a State under this subsection, if the attorney general or other appropriate officer determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the State shall provide notice and a copy of the complaint to the Commission at the same time as the State files the action.

(b) INTERVENTION BY COMMISSION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

- (A) to be heard with respect to any matter that arises in that action;
- (B) to remove the action to the appropriate United States District Court; and
- (C) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall be construed to prevent an attorney general of a State, a State utility commission, or other consumer protection agency authorized by State law from exercising the powers conferred on the attorney general or other appropriate official by the laws of that State to—

- (1) conduct investigations;

(2) administer oaths or affirmations;

(3) compel the attendance of witnesses or the production of documentary and other evidence; or

(4) enforce any State law.

(d) ACTION BY THE COMMISSION MAY PRECLUDE STATE ACTION.—In any case in which an action is instituted by or on behalf of the Commission for violation of this Act, or any regulation issued under this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of this Act or regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

- (A) is an inhabitant; or
- (B) may be found.

(f) LIMITATION.—No prepaid calling card distributor who is a retail merchant or seller of prepaid calling cards, who, with respect to such cards, is exclusively engaged in point-of-sale transactions may be liable for damages in an action authorized under this section unless such distributor acted with actual knowledge that the act or practice giving rise to such action is unfair or deceptive and is unlawful under this Act.

#### SEC. 6. APPLICATION.

This Act shall apply to—

(1) any prepaid calling card issued or placed into the stream of commerce beginning 90 days after the date on which final regulations are promulgated pursuant to section 4(c); and

(2) any advertising, promotion, point-of-sale material or voice prompt regarding a prepaid calling card that is disseminated beginning 90 days after the date on which final regulations are promulgated pursuant to section 4(c).

If the Commission determines that it is not feasible for prepaid calling card providers or distributors to comply with the requirements of this Act with respect to prepaid calling cards issued or placed into the stream of commerce after such 90-day period, the Commission may extend such period by not more than an additional 90 days.

#### SEC. 7. EFFECT ON STATE LAWS.

After the date on which final regulations are promulgated pursuant to section 4(c), no State or political subdivision of a State may establish or continue in effect any provision of law that prescribes disclosure requirements with respect to prepaid calling cards unless such requirements are identical to the requirements of section 3.

#### SEC. 8. G.A.O. STUDY.

Beginning 2 years after the date on which final regulations are promulgated pursuant to section 4(c), the Comptroller General shall conduct a study of the effectiveness of this Act and the disclosures required under this Act and shall submit a report of such study to Congress not later than 3 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. RUSH) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

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

may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

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

There was no objection.

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

H.R. 3402, the Calling Card Consumer Protection Act, was introduced by my friend, Mr. ENGEL, and will help end calling card fraud that currently plagues communities across this Nation. It requires full and accurate disclosures on the fees, charges and terms that apply to calling cards, and it will go a long ways towards protecting innocent consumers.

I urge the bill's adoption.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of H.R. 3042, the Calling Card Consumer Protection Act.

There is enormous fraud in the marketing and delivery of prepaid calling card services, reportedly up to as much as 30 percent to 40 percent of the industry's revenue. Prepaid card fraud is not a new problem, but has grown into a \$1 billion industry that has attracted an increasing number of new providers, some better than others.

In many cases, the fraud is associated with the cards marketed to people from a specific region in the world with purported preferred rates to their country of origin. The States have responded to this problem with their own disclosure requirements and have increasingly brought enforcement actions against the bad actors, as has the Federal Trade Commission.

H.R. 3402 attempts to put the Federal Trade Commission in a strong position to go after the bad actors and to mandate proper disclosures to consumers. A national law is helpful, because it provides consistency for providers and consumers, consistency for enforcement, and it reduces confusion across this market.

In addition to preemption of State law for H.R. 3402 to be effective, it will have to apply to common carriers. We have crafted a very narrow enforcement authority for the FTC, solely for the purposes of this act, and I am glad we could do that on a bipartisan basis.

Madam Speaker, I reserve the balance of my time.

Mr. RUSH. Madam Speaker, I am pleased to yield 5 minutes to my friend, the author of this bill, the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank my good friend, the gentleman from Illinois (Mr. RUSH) for his hard work on this important issue. We are so delighted, Bobby, to see you back. We look forward to continuing our work with you. Thank you so much for everything you have done, and, also, the gentleman from Nebraska (Mr. TERRY).

I would to also thank our chairman of the Energy and Commerce Committee, Mr. DINGELL, the gentleman

from Michigan for his strong support of this legislation.

This passed unanimously out of the Energy and Commerce Committee in a bipartisan way and in no small part due to the people I have mentioned before. I also want to thank the dedicated majority and minority staffs of the Consumer Protection and Telecommunications subcommittees for their diligent work in crafting an excellent bipartisan, compromise bill.

Madam Speaker, the prepaid calling card market is a \$4 billion industry. In a recent independent study it was found that, on average, companies failed to provide 40 percent of the minutes guaranteed by the card, costing consumers hundreds of millions of dollars a year.

This fraud harms segments of the population who are least able to afford it, the poor, recent immigrants, minorities and seniors, and the companies don't stop there. They have even preyed upon our soldiers in Iraq and Afghanistan. This is unconscionable and obviously un-American. This legislation would end the deception and the fraud that these people have suffered at the hands of unscrupulous companies.

Now, the bottom line for this bill is this is a consumer protection bill. If we are in favor of protecting the consumer, then we should vote for this bill, because it's very, very simple. People have a right to know that when they buy a prepaid calling card, what they see is what they get. If a card says you get 60 minutes of calling time, then that consumer who buys the card is entitled to 60 minutes of calling time.

What we find in little small print that nobody can see or understand, there are so many hidden fees. Some calling cards say that you only can get the 60 minutes if you call at certain times. But if you don't call at other times, you don't get the minutes. Then the time you get the minutes is only from 2 to 4 a.m., which is ridiculous. Some cards charge you 3 units, 3 minutes of call time if you get a busy signal. Or 3 minutes of call time if you are just connected, as for a connection charge, even if it was across the street or in the same State.

So consumers don't want to think they are being defrauded. Consumers are entitled to get what they pay for. Sometimes there are companies that are very legitimate. Most of the companies are legitimate.

If a company says that you get 60 minutes of calling card, and it's a legitimate card, and that card may be a little bit more expensive than the fraudulent card, the unsuspecting consumer will buy the cheaper card thinking that he or she will get a better deal, when, in reality, the 60 minutes may only be 30 or 32 or 35 minutes.

The bottom line is this, if you are for the consumer, if you are for truth in marketing, then you should support this bill. If you are not, and you want things to go along the way they have been, then don't vote for the bill.

I am so delighted that we have bipartisan consideration on this and that, in a bipartisan fashion, we all agree that this is something that really should pass.

Nobody, nobody should be against this, not the telecom companies, not consumer groups, not any Members of Congress.

If we want to stand for legitimacy and say that we want to protect the consumer, and that we want people to understand that when they purchase something, they know what they are getting, then we ought to all vote for this bill.

I thank my colleagues. This is a tremendous victory for the consumers in America.

Mr. TERRY. Madam Speaker, I yield 4 minutes to the gentleman from Kentucky.

Mr. WHITFIELD of Kentucky. I certainly want to thank Chairman RUSH and the Democratic staff and the Republican staff for working so diligently to pass not only the Calling Card Consumer Protection Act, but also the Travel Promotion Act. I certainly want to congratulate Mr. ENGEL for bringing this matter before the House. It certainly is an important issue, and we are all delighted that this bill is moving forward.

Madam Speaker, I simply wanted to have a colloquy, if I could, with Chairman RUSH about a couple of issues relating to this bill, and simply wanted to confirm with Mr. RUSH the intent of certain provisions as they relate to small retailers that are selling these prepaid calling cards.

I guess my question, Chairman RUSH, is that if a retailer sells a card but is unaware that the calling card does not make all of the disclosures required by the act, will the retail merchant be subject to monetary penalties under sections 4 or 5 of the bill?

Mr. RUSH. I want to assure the gentleman if the retailer knowingly sells fraudulent cards, it would be subject to FTC penalty. But if the seller, the retailer does not know that they are fraudulent cards, then the penalties would not apply, only injunctive relief.

Mr. WHITFIELD of Kentucky. Thank you very much, Chairman RUSH.

To be clear, it is also my understanding that, obviously, to protect consumers, a retailer could be enjoined by the FTC, or State authorities, and required to stop selling fraudulent cards, which they should be required to stop, whether or not they knew the cards were fraudulent.

Such retailer would not, however, it's my understanding, and I think you pointed this out, they would not be subject to civil penalties or damages unless they knew the cards were unlawful; is that correct?

Mr. RUSH. The gentleman is correct.

Mr. WHITFIELD of Kentucky. I thank the gentleman very much, and I just wanted to express once again, the pleasure of working with the chairman on this.

We appreciate your great leadership. Once again, I want to thank the staffs on both sides of the aisle.

Mr. ENGEL. Would the gentleman yield?

Mr. WHITFIELD of Kentucky. Yes, sir.

Mr. ENGEL. I thank the gentleman from Kentucky for bringing up that very important point. He should know, as I am sure he does, that there is no intent to penalize mom-and-pop store owners or anybody who may sell a card of this degree without any knowledge that there is something wrong with the card.

The purpose of this legislation is to go after the companies who fraudulently manufacture and sell these cards, not to go after individual grocery stores or mom and pop stores that sell these cards. I definitely agree with the gentleman that if someone does not have a knowledge that they are selling the card that may be flawed, we should not in any way, shape or form penalize them. That is certainly not the intent of the bill.

Mr. WHITFIELD of Kentucky. We certainly appreciate that clarification and look forward to the passage of this bill.

Mr. DINGELL. Madam Speaker, I rise in strong support of an excellent and sorely needed piece of legislation, H.R. 3402, the "Calling Card Consumer Protection Act". This bill is intended to combat the fraud and deception that is rampant in the marketing of prepaid calling cards. Many of our consumers—especially recent immigrants, the poor, students, and members of the military and their families—are vitally dependent on these prepaid cards to keep in touch with family and friends.

This bill requires providers and distributors of these cards to make full, clear, and honest disclosures on the cards, their packaging, and advertising materials. No more hidden charges. No more cards that do not deliver the minutes they promise. The bill empowers the Federal Trade Commission to enforce the Act. Violators would be subject to injunctive and other equitable relief to stop them from cheating consumers. If a violation is "knowing", they would be subject to civil penalties. In this way, the bill ensures that retailers who sell these dirty cards are subject only to injunctive relief, unless it can be shown that retailers knew the cards were fraudulent. Thus, we get the fraudulent cards off the market without punishing innocent retailers.

This bill maximizes protections for consumers and maintains a clear line between the areas of expertise of two agencies—the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC). The bill provides the FTC with limited jurisdiction over common carriers, but is careful to preserve FCC's jurisdiction over common carriers for all other purposes. The bill also appropriately excludes prepaid wireless services as the record has not demonstrated a need for requiring such disclosures.

Once again, to promote uniform disclosures on cards bought across the United States, it provides a narrow preemption of State prepaid calling card disclosure requirements only. It preserves a strong enforcement role for State

Attorneys General and public utility commissions.

Finally, the bill mandates that the FTC conduct a rulemaking to ensure that all stakeholders—the calling card and telecommunications industry, States, and consumer groups—have a say in the final details of the uniform disclosure requirements that this legislation promotes.

Madam Speaker, H.R. 3402 is thoughtful and balanced legislation that is critical to protect some of our most vulnerable consumers. This bill has strong bipartisan support. I want to commend the author of this bill, the gentleman from New York, ELIOT ENGEL, for his fine leadership, and I urge Members to vote yes.

Mr. TERRY. Madam Speaker, I yield back the balance of my time.

Mr. RUSH. Madam Speaker, I have no other speakers, and we yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. RUSH) that the House suspend the rules and pass the bill, H.R. 3402, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### PERMISSION TO CONSIDER AS ADOPTED MOTIONS TO SUSPEND THE RULES

Mr. ENGEL. Madam Speaker, I ask unanimous consent that the motions to suspend the rules relating to the following measures be considered as adopted in the form considered by the House on Tuesday, September 23, 2008:

House Resolution 1461, House Concurrent Resolution 393, House Resolution 988, and H.R. 3018.

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

There was no objection.

The SPEAKER pro tempore. Without objection, respective motions to reconsider are laid on the table.

There was no objection.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that on rollcall number 641 the following correction will be made:

The gentleman from Arkansas (Mr. ROSS) to be recorded as voting “aye,” bringing the number of “aye” votes to 415.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 29 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1858

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BOYDA of Kansas) at 6 o'clock and 58 minutes p.m.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7060, RENEWABLE ENERGY AND JOB CREATION TAX ACT OF 2008

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 110-887) on the resolution (H. Res. 1502) providing for consideration of the bill (H.R. 7060) to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 110-888) on the resolution (H. Res. 1503) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

#### PROVIDING FOR CONSIDERATION OF H.R. 7060, RENEWABLE ENERGY AND JOB CREATION TAX ACT OF 2008

Mr. ARCURI. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 1502

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 7060) to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 10 of rule XXI. The bill shall be considered as read. All points of order against 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 chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. During consideration of H.R. 7060 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

SEC. 3. House Resolutions 1489 and 1501 are laid on the table.

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

Mr. ARCURI. Madam Speaker, for purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Mr. ARCURI. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material into the RECORD.

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

There was no objection.

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

Madam Speaker, House Resolution 1502 provides for consideration of H.R. 7060, the Renewable Energy and Job Creation Tax Act. The rule provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Madam Speaker, I rise today in support of this rule because American families and small businesses need tax relief now more than ever. This rule will allow us to bring legislation to the House floor later today or tomorrow that will not only strengthen our economy by directing tax relief to middle class families and in creating jobs with small businesses but also help to bring this country into a new alternative energy future.

Madam Speaker, I urge my colleagues on both sides of the aisle to support this rule and the underlying legislation.

I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I thank the gentleman, my friend from New York, for coming back down to redo this rule.

Madam Speaker, we are here because earlier in the day, just a few hours ago, it was discovered that the 64th closed rule, which set a brand new record for a United States Congress, contained several errors. And so we debated this issue already on the floor.

Here we are for the 65th now closed rule, a brand new record for the United States Congress—one which I'm not proud of—and from a Speaker who says that this Congress would be the most open, honest, and ethical Congress ever, a brand new closed rule record has occurred today.

Madam Speaker, we went back up to the Rules Committee just a few minutes ago. The gentleman from Oregon (Mr. WALDEN) came back and was present to hear the Rules Committee slam dunk his request again, which was an opportunity based upon a colloquy that took place this afternoon just a few minutes ago between the majority leader, Mr. HOYER, and myself, about