There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2017, COMMON SENSE NUTRITION DISCLOSURE ACT OF 2015, AND PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM FEBRUARY 15, 2016, THROUGH FEBRUARY 22, 2016

Mr. BURGESS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 611 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 611

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2017) to amend the Federal Food, Drug, and Cosmetic Act to improve and clarify certain disclosure requirements for restaurants and similar retail food establishments, and to amend the authority to bring proceedings under section 403A. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. On any legislative day during the period from February 15, 2016, through February 22, 2016—

(a) the Journal of the proceedings of the previous day shall be considered as approved; and

(b) the Chair may at any time declare the House adjourned to meet at a date and time, within the limits of clause 4, section 5, article I of the Constitution, to be announced by the Chair in declaring the adjournment.

SEC. 3. The Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 2 of this resolution as though under clause 8(a) of rule I.

SEC. 4. The Committee on the Judiciary may, at any time before 5 p.m. on Tuesday, February 16, 2016, file a report to accompany H.R. 3624.

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

□ 1230

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

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

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

There was no objection.

Mr. BURGESS. Mr. Speaker, House Resolution 611 provides for a rule to consider a commonsense, bipartisan piece of legislation that will fix a problem that was wholly created by the intransigence of the bureaucrats at the Food and Drug Administration. This important bill amends the difficultly drafted Affordable Care Act, which rigidly mandated that food establishments provide physical notices of the nutritional value of every food item that they offer.

Perhaps this is a noble endeavor in theory, until one considers that the inflexible rule put out by the Food and Drug Administration makes no allowances for establishments that allow for multiple variations of their offerings. This could mean that a pizza chain, for example, would have to provide calorie counts for every possible different type of pizza combination that one could order, a mandate that would result in a pizza place needing to literally wallpaper their establishment, and perhaps the establishment next door, with all of the different scenarios for personalized pizzas.

The rule provides for 1 hour of debate. It is equally divided between the majority and the minority of the Energy and Commerce Committee. The Committee on Rules made in order every amendment that was submitted to the committee to be considered, two Democratic amendments and one bipartisan offering. Finally, the rule affords the minority the customary motion to recommit, a final opportunity to amend the bill should the minority choose to exercise this option.

Mr. Speaker, the issue before us today in the underlying bill is not about whether restaurants should provide their customers with nutritional information; the issue is fundamentally one of the proper role of government. Since President Obama moved into the White House and NANCY PELOSI and HARRY REID served as his stewards in the 110th Congress, the Democrats have drummed a steady beat toward expanding the role of government in every direction in our lives.

H.R. 2017, the Common Sense Nutrition Disclosure Act, is bipartisan legislation introduced by Representatives CATHY MCMORRIS RODGERS and LORETTA SANCHEZ to fix the Food and Drug Administration's unworkable implementation of the menu labeling law. The Food and Drug Administration's regulatory framework is not just cumbersome for the food industry, it also impedes a business' ability to provide meaningful information that customers can use to make nutrition decisions.

The Common Sense Nutrition Disclosure Act is critical to avoid harming consumer choice, harming jobs, and harming small business. The Federal Government should not presume to know how restaurants, supermarkets, cafes, convenience stores, and entertainment venues can best serve their customers and run their businesses, yet the Food and Drug Administration has done exactly that.

For years now, many restaurants and retail food establishments have disclosed caloric information to their customers. This industry expertise should have been instructive to the Food and Drug Administration as it developed the Federal regulation. In fact, the Food and Drug Administration took 3½ years before finalizing a rule that virtually ignores serious concerns raised about the harm of an overly prescriptive, one-size-fits-all approach.

Not only did the FDA disregard the input of consumers and industry experts, it also extended the scope of the regulation far beyond what anyone could have imagined when they voted for this bill in March of 2010. If the Food and Drug Administration is allowed to implement the rule as it stands, the Office of Management and Budget has determined it will require more than 14 million—14 million—compliance hours, in addition to costs exceeding $1 billion. Even the Food and Drug Administration acknowledged that initial compliance will cost almost $400 million, with recurring costs as high as $150 million per year. Likely, the actual costs for the private sector will far exceed those estimates.

Perhaps even more concerning than the costs, food service establishments. Food service establishments are going to face Federal criminal penalties for even the slightest failure to comply with the framework envisioned by the Food and Drug Administration.

Under section 403(a)(1) of the Food, Drug and Cosmetic Act, food labeling must be truthful and not misleading. Food labeling that does not meet the Food and Drug Administration's standard for ''truthful and nonmisleading''

is deemed ''misbranded.'' Under the U.S. Code, introducing misbranded food into commerce is a prohibited act, and the liable party shall be imprisoned for up to 1 year, fined not more than $1,000, or both.

Food to which these menu labeling requirements apply is deemed misbranded if the Food and Drug Administration's rule requirements are not met. It is not necessary that the person intentionally mislead customers. Under the Food and Drug Administration's framework, merely adding an extra slice of pepperoni will render the calorie content on the menu misleading, and your chef is now a criminal.

People say that the Food and Drug Administration won't put people in jail over this, so I don't think there should be an issue in saying just that, that people will not be put in jail for an extra slice of pepperoni. I don't think there is a problem with codifying that in statute. I think it will give great reassurance to food preparers in the industry.

The Food and Drug Administration's regulation is applicable to restaurants and similar establishments that sell ready-to-eat food that are part of chains with at least 20 stores. This would include bakeries, cafeterias, coffee shops, convenience stores, delis, entertainment venues, food service vendors, fast-food take-out or delivery establishments, grocery stores, confectionery stores, quick service restaurants, and table service restaurants.

Although stores may be part of a nationwide chain, there is substantial variation between regional locations. For example, convenience stores noted in their testimony that, unlike a McDonald's or a doughnut shop that have the same format everywhere they go, many convenience stores have different layouts based upon region, so coming up with a uniform standard would, in fact, be challenging. This means that all chains will incur individual costs for nutritional analysis and for menu labeling for each location, not just one time done at the national level.

Under the rule, the definition of a menu is applied broadly to mean any writing a customer uses to place an order. This approach would include everything from in-store menu boards to print advertising in the form of door hangers or circulars or online advertising. The rule requires that each menu item have a clearly visible calorie count, including separate calorie information for variable menu items such as toppings or flavor additives.

Pizza chains estimate that there are over 30 million combinations available to customers; and the calorie content for each option couldn't fit on any menu board that I have ever seen. Grocers estimate that the rule would include hundreds of items in stores that are offered subject to availability and demand, things such as fresh produce, baked goods, seafood, making it virtually impossible to have accurate menu boards without changing them on a nearly constant basis. Many of these businesses would likely stop offering the range of options that are currently available because it would simply cost too much to comply.

Clearly, the Food and Drug Administration's regulation does not provide a workable framework for businesses. This rule should be about ensuring customers are provided with accurate, trustworthy nutrition information to help inform their decisions, all the while, enabling small businesses the ability to comply.

Representative MCMORRIS RODGERS' bill is carefully constructed to create transparency for consumers, while maintaining the flexibility necessary for all regulated businesses to be in compliance. The Common Sense Nutrition Disclosure Act will establish a more reasonable standard for Federal regulation by applying nutritional disclosure requirements to establishments that derive more than 50 percent of their total revenue from the sale of food.

The bill also ensures that inadvertent human error will not subject a local franchise owner to crippling fines or possibly imprisonment. Nutritional information could be provided by a remote access menu for food establishments where the majority of orders are placed by customers off premises. Establishments with self-serve food may comply with the requirements for restaurants or place signs with nutritional information adjacent to each food item, and the bill clarifies that advertisements are not menus.

Yesterday, during the Rules Committee hearing, Ranking Member PALLONE testified that it is important that consumers have information at the point of purchase. I disagree with this point. Consumers should have the information when they are placing their order.

A menu board may work for some businesses where customers order at the counter where they also pay; but for something like a pizza restaurant where most people are ordering online or over the telephone, having the calorie information when they pick up their order actually won't be helpful to the consumer when they are actually making the decisions. This is an example of how the Food and Drug Administration did not consider the array of business types included in this rule, and this is why a legislative solution not only is necessary, but it is required.

The food retail sector employs millions of Americans, and it provides access to affordable, healthy options. The Federal Government must not impose arbitrary regulations that will cause unnecessary harm to businesses and customers. The businesses impacted by this rule widely support providing customers with the nutritional information to better inform their food decisions, but they want to do it in a practical and commonsense way.

□ 1245

This legislation provides clear guidance to small business owners, ensuring compliance and at the same time delivering that critical information.

I encourage all of my colleagues to vote ''yes'' on the rule and vote ''yes'' on the underlying bill.

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

Mr. POLIS. I thank the gentleman from Texas for yielding me the time, and I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the rule. This is one of the strangest debates we have had in my time in the House here on the floor of the House. We are actually literally debating the fine print of menus in chain restaurants.

Frankly, I think the American people want to see this body address the real issues that they care about every day. They want our body to fix our broken immigration system and secure our borders. They want us to raise the minimum wage and make college more affordable. They want to make sure that Americans are safe and secure in their homes and that we can ensure for the next generation of Americans the same promise that our last generation has enjoyed in this country.

We know it is becoming even harder and harder for Americans to stay and thrive in the middle class, burdened with more and more college debt and with medical bills. It is time to improve that and make sure that we can restore a robust economy that works for all Americans.

The finer points of exactly the font size on menus is, of course, best left to the executive agencies. It is a complete waste of Congress' time. There is a 400-page guidance from the FDA, and Congress is now going into that through this bill and literally doing things like adjusting font size and changing definitions. What a bizarre way to spend not only an hour for this rule debate but time for the actual bill debate, amendments, and the vote. I wonder how much taxpayer time we are spending on menu font size, which I don't even know why we are even talking about that. How bizarre.

The Common Sense Nutrition Disclosure Act is advertised as a response to what some perceive to be FDA regulations they don't like. Fine. Elect a different President. There actually will be a different President. One of the things this bill ironically does is delays these rules until there is a new President.

So, I don't know, will Members of this body like rules better that are set by President Trump or President Sanders or President Clinton? I don't even think the topics come up in their campaign on what font size they want on menus and where they want the calories listed. I haven't heard it from any of my constituents.

Generally, people want information about calories and how much they are getting. They want to know that, if

they are getting a hamburger, it might make a difference if the smaller one is 300 calories and the bigger one is 500; maybe if I am watching my weight, I will order the smaller one.

That is generally what people want. These rules generally do that. But here we are using hundreds of thousands of taxpayer dollars changing a few things and saying, by the way, we want President Trump or Sanders to do this instead of President Obama.

I mean, why? The American people should be outraged. The American people look at Congress, and what do we have, like I think a 6 percent approval rating. Six percent of the American people are saying right on? Six percent of the American people want us to discuss exactly where it says how many calories your hamburger has at your fast-food restaurant? Maybe those 6 percent checked the wrong box on that congressional approval poll. But at least 94 percent of the American people think we ought to be doing something else, and so do I.

I think we should be working to balance the budget. I think that we should fix our broken immigration system and restore our borders. I think that we should grow the American economy, find a sustainable way to invest in infrastructure, find a way to provide a boost to the renewable energies economy, boost American exports in manufacturing, raise the minimum wage, make health care more affordable, and build upon the improvements of the Affordable Care Act.

But no, no. The Republican majority has decided we are going to spend the rest of the day today and tomorrow debating where and how on menus—and not even all restaurants, just some restaurants, with restaurants on all sides of this issue, by the way—that it says how many calories are in your hamburger.

While some say that they don't like the regulations, the reality is this bill actually delays and waters down the transparency that the American people want. Honestly, my constituents have not called about this. I don't think many of them care that much about where it says how many calories are in their burger. But to the extent they think about it, they just want transparency. They want to see it. So do I as a consumer, by the way.

When we work late nights here in D.C., I will order online from a delivery service. They will bring the food to my home. Sometimes I will go into their storefront, and sometimes those stores are chain stores that are under this.

Now, as a consumer, I like to see the calories at all those locations. What this bill would actually do is prevent that from happening. It would say, look, Mr. Store Owner or Ms. Store Owner of a Restaurant Franchise Chain That Delivers, you get 60 percent of your business at your door that comes in, 40 percent of your business is delivery, so you don't have to tell your delivery customers on your Web site how many calories are in that burger. If I am one of their delivery customers, I lose out on that transparency because of the measures in this bill.

And the converse, what if 60 percent of their food is delivery food and 40 percent are walk-in customers? Now you are saying that if I choose to go there, walk-in customers, sure, maybe the calorie thing is somewhere, maybe it is tucked under a magazine dispenser or it is on some back wall in the restroom, but it is not right there on the menu where I can actually see how many calories are in the item of my choice.

The American people like our labeling. They like transparency. You go to the supermarket, every item, you pick it up, there is a label that tells you the calories, and it tells you the ingredients. People like that for restaurants. They certainly don't like Congress trying to modify the fine print on the font size on 400 pages of thoughtful rules around exactly how this should be done and punting it to the next President, whom we don't even know who that is going to be, to start a whole new rulemaking process about something that is very simple.

People want to see how many calories are in what they eat. It is a very simple concept—very simple. People like it. People don't want us wasting time on it. Let's not waste time on it. Let's discuss the things people care about.

But, no, we are forced to, under this rule, spend even more time—and time is money. Time is money, not just of opportunity cost, but we could be talking about ending our budget deficit and restoring order to our border. We could be doing that. Not just the opportunity cost but actual cost. It costs money to keep this body up and running. We are paying our staffs, the lights are on, hundreds of thousands of dollars of taxpayer money to discuss exactly where and how the number of calories on your hamburger will be listed when there already are over 400 pages of rules which work and are still being fine tuned.

We had great testimony from the ranking member on the Energy and Commerce Committee, FRANK PALLONE, yesterday in our Rules Committee. He said that there are ongoing discussions with FDA, and they are well aware of some of these issues that can be improved.

Congress is best setting these broad directions, like the broad direction which I support which Congress actually did. This was part of the Affordable Care Act. If it were a separate vote, I would have been proud to support it too. We said chain restaurants need to label caloric intake. That is great. That is a broad direction. The details of exactly how to do it need to be figured out on the implementation side.

I can only imagine, if Congress got this involved with every single thing, this country would grind to a halt. Nothing could ever occur. No permit would ever be granted. No approval would ever occur of anything. It is simply the wrong way to run the largest, wealthiest, most democratic, and most free nation on the face of the Earth by grinding the country to a halt over Congress—the Congress of the United States—setting font sizes on restaurant menus. What the heck are we doing? It is a wonder that 6 percent of people, Mr. Speaker, approve of this Congress. I think they checked the wrong box.

The whole point of this labeling measure included in the Affordable Care Act was to empower consumers to make healthier decisions about the food they eat by simply allowing them to know what is in it. That is the broad direction set by Congress, making sure that we have a public health impact. We need a certain level of standardization so consumers can compare nutritional information on restaurants, just as we do on packages in stores.

If companies that make packaged foods had free rein to invent serving sizes on nutrition labels, or to put the labels on the inside of the container instead of the outside where you can't really see it, would anybody in this body argue that those labels were no longer serving the public good for which they were introduced?

This is the same thing. This is the same thing as putting a label on the inside of a jar, rather than the outside, to game the system. It seems to me like an effort to deprive the American people of information they want to see. You don't improve Federal standards by making them unenforceable in a court of law. You make them irrelevant by making them unenforceable in a court of law.

Mr. Speaker, I am one of these people who wants to know what is in their food. Many of my constituents are too. I am proud to represent the Second Congressional District of Colorado, one of the fittest congressional districts in this Nation, one of the districts with the lowest obesity rates, and a district in which people pride themselves on nutrition, healthy lifestyles, and exercise. I am proud to be a representative of that district. My constituents want to know what they eat. Menu labeling, which has been implemented in five States and dozens of cities since 2006, empowers consumers to make healthy decisions and know what they eat, which has never been more important.

We all know that obesity and diabetes are on the rise. Last year, almost half of American adults had diabetes or pre-diabetes. Medical costs are in the hundreds of billions to treat these diseases and growing. Eating well is the most significant thing that a person can do as a preventative health measure to prevent themselves from developing these diet-related illnesses, including obesity and heart disease.

As it stands now, nutrition information is already available on prepackaged foods. So when I cook at home, I know exactly what ingredients

are going into the meal I feed myself and my kids. It is right on the label. But when I go out to eat, I don't have the advantage of that same information.

In 2015, for the first time ever, Americans spent more money at restaurants than on groceries. Let me say that again: Americans spent more money at restaurants than on groceries for the first time in 2015. That is a big deal. An important part of the nutritional content that gives us sustenance comes from restaurants, and the American people want that same level of transparency at their restaurants.

With this particular bill, Congress would be moving away from the broad direction that it gave the FDA to basically micromanage over 400 pages of exactly, in what instances, where, and how labels need to appear to the detriment of transparency and access.

As my friend from New Jersey (Mr. PALLONE) mentioned in the Rules Committee, the FDA solicited significant feedback from stakeholders over many years, both during the negotiations of the Affordable Care Act and, of course, over the course of developing a final rule. They have delayed implementation for 2 years already to give restaurants and the retail food community more time. I am talking about printing things. How overly generous can you get?

With this bill, the Republicans are seeking 2 more years of delay. It is important to point out it has already been delayed 2 years. Again, this is a typical example of why the American people are so frustrated with Congress. This is a bill that will effectively grind things to a halt. Grind what to a halt? Telling you how many calories are in your hamburger, something that people want to know. That is what it will grind to a halt. To what end? To no end. It is a bizarre, unusual waste of time for Congress to be even debating this.

If this bill were to pass and be signed into law—which it won't be because, of course, the President does not support this bill—it would postpone regulations for another 2 years, leaving an entirely new structure about exactly how the caloric intake on your menus is portrayed to the next President of the United States. Let's get this done.

Under this bill, the menu labeling provision would go into effect, at the earliest, in 2018 and would be significantly watered down. Why is Congress sticking our noses in over 400 pages of rulemaking regarding this issue? If we have issues with the FDA, bring them up appropriately in oversight hearings of the FDA. At most, legislatively, perhaps a funding restriction amendment in an appropriations process to run a particular aspect of this regulation that a majority of this body doesn't like might be a legislative way to spend 10 minutes on it and resolve it. Ten minutes. Maybe the American people would think it reasonable to spend 10 minutes.

They don't think it is reasonable to discuss this for 2 days. Hamburger calories for 2 days and exactly what font size and where it appears? What is going on here, Mr. Speaker? This is simply an inappropriate way, a shockingly out-of-touch way, for Congress to spend its time.

My colleagues who support this bill have said that it builds flexibility for compliance. They say that it can help clarify nutrition information. I don't agree with those remarks, but I am more concerned with the provision of micromanaging the way that bills this Congress have already passed are implemented.

I am worried this bill would make the provision of nutrition information more confusing for several reasons. In fact, I think that is part of the nefarious goal of this bill.

Where are caloric counts supposed to be displayed? This bill would allow the restaurant or retail establishment to publish this information on one menu board, and not necessarily at the point of sale. So instead of on the menu at the point of sale, they can stick it in the bathroom. They can stick it in the bathroom. If you don't go to the bathroom, you won't see how many calories are in your burger. That is what they could do under this rule. Who the heck wants that?

As Mr. PALLONE pointed out yesterday, H.R. 2017 allows retailers to publish nutrition information in the format that receives the majority of their customers, whether it was in person or online.

□ 1300

Just because I order food delivered to my home, I might not get to know how many calories are in my family's dinner. Or conversely, if other people order delivery and I go into a restaurant, I might not get to know how many calories are in a meal that I am feeding my family.

I don't see why we don't just publish the information in the store, on takeout menus, and online. They have it, they know it, print it. It is easy. Do it. People want to see it. It is transparency. It is like letting prepackaged goods put their label on the inside of the package where nobody can see it rather than the outside. Or people buy things, if you buy your packaged goods online—and some people do—saying: Oh, it is on the Web site, so it doesn't need to be on the label. If you go in the store, you don't get to know what is in this product.

The businesses that are required to implement these regulations aren't even corner delis or mom and pop shops. This isn't about them. This is about restaurants with more than 20 locations. The FDA has exempted any business smaller than that.

In fact, the rulemaking has many exceptions already, including exemptions for specialty items, for temporary menus, for custom orders, and for daily specials. All exempt. They had a thoughtful process. They talked to restaurant owners. I haven't heard any complaints from my district about it, and people generally support the overall direction of transparency.

I am especially concerned with how this bill would eliminate mechanisms for enforcement by removing a provision requiring businesses to provide documentation of compliance. It means that it would be essentially impossible for businesses to be accountable for whether they are even complying with regulations. It would make these regulations in paper only, in name only. There would be no meaningful enforcement mechanism. If this bill were to become law, which it won't, it would effectively gut those transparency requirements.

The bill also prohibits civil lawsuits against businesses that attempt to deceive customers or circumvent the labeling process. If companies are willingly lying about what is in their products, in the calories and the nutritional content, of course, they should be liable for that—of course.

Should a company intentionally mislead with confusing labels, customers need a way to fight back. Instead, this bill calls for complete indemnity, and makes any labeling initiative meaningless because there is simply no reason to comply.

This bill allows restaurants to essentially invent their own nutritional information by using deceptive serving sizes and hide that information in bathrooms or on walls where consumers won't even see it, and not put it online or only put it online and not at the restaurant.

At the same time, if somehow customers are able to discern that an establishment is lying, it strips away the enforcement mechanism and civil liability from that.

What a colossal waste of time for the United States Congress to descend to the level of whether calories should be displayed in bathrooms, or on walls, or on menus in restaurants with more than 20 chains, when this Nation is in crisis and needs a responsible Congress to balance the budget and needs a responsible Congress to secure our borders and replace our broken immigration system with one that works.

It needs a responsible Congress to ensure the safety and security of the American people, it needs a responsible Congress to find a sustainable way to invest in infrastructure and growth, and it does not need a Congress to micromanage the font size of menus.

I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CARTER), a member of the Education and the Workforce Committee.

Mr. CARTER of Georgia. Mr. Speaker, I thank the gentleman from Texas for yielding.

Mr. Speaker, this is just another example of excessive burdens placed on small businesses from Federal regulations.

The proposed menu labeling requirements by the FDA, which come from a provision of ObamaCare, will require restaurants, grocery stores, gas stations, and even movie theaters and miniature golf courses to list the number of calories in food and drinks they sell.

Thousands of small businesses will have to absorb the cost of providing new menu displays and calorie information. As a former small business owner, I can tell you this is money small businesses cannot afford.

Ultimately, the group that will pay the price for these new regulations is the American consumer through increased food and drink costs at their local restaurants and grocery stores.

Several large chain stores have welcomed these new regulations. I wonder why. They know that their small business competitors can't afford to purchase new menus and signs, placing them at a disadvantage to the larger chain companies.

I find it ironic that this administration that champions itself a small business advocate, continues to place additional burdens on small businesses at the advantage of larger corporations.

H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015 remedies this glaring conflict and removes the unnecessary and expensive red tape so small business owners can continue to compete and grow our economy.

I encourage my colleagues to support small businesses by supporting this legislation.

Mr. POLIS. Mr. Speaker, I yield myself 3 minutes.

First of all, none of what we are even talking about applies to small businesses.

I have friends that own restaurants in Colorado in Boulder and Fort Collins. I have a friend that has three restaurants and another one has one restaurant. I actually used to own a part of a restaurant. I don't recommend that business to anybody. It is a tough business. This bill doesn't apply to any of those people. We are talking about businesses with over 20 restaurants. We are talking about the big guys.

I think that is why, for instance, the National Restaurant Association isn't even in favor of this bill. They represent many of the restaurants that feel that this is a step forward. They want their customers to know what is in their food because, guess what, when you know what is in your food, you are more likely to dine out.

The fact that restaurants have surpassed grocery stores for meals just shows the importance of restaurants to the American people. People want to know what is in their food. This bill would impede that. It is Congress micromanaging the fine print of a thoroughly vetted and negotiated rulemaking process that has already been delayed 2 years—it is Congress delaying it another 2 years—saying somehow this issue of exactly where in restaurants it displays the calories is so important that President Obama can't be trusted with it, we have to trust President Trump or President Clinton or President Sanders. That is what this body is effectively saying. It is a colossal waste of this body's time. It is time for Congress to focus on issues that matter to the American people.

That is what I hear about. I think it is what my colleagues hear about when we have townhalls when we are out and about in our districts. I haven't heard a single constituent—we are not even talking one—who said that they want the number of calories on the menu items to be harder to see or posted in less places at restaurants—zero. I have heard from literally zero constituents that they want this.

I have heard from several that they like knowing what is in their food. I think that most constituents—who I haven't heard from at all on this issue—are just utterly dismayed that Congress is spending a day and a half even debating this. How bizarre this is when there are real life bread and butter issues that they face—putting food on their table, paying their rent, paying their college loans, replacing their car that burnt out, making sure they don't lose their job, and having to work a second job to make ends meet and make their mortgage. That is what people are facing out there.

The fact that what this Congress is debating is so far removed from that dinner table talk at a family's house is why this Congress has such a dismal approval rating, which will continue to get worse as long as we debate these kinds of bills.

I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ALLEN), a valuable member of the House Agriculture Committee.

Mr. ALLEN. Mr. Speaker, I thank the chairman, and I appreciate this time.

Yes, this country does have major problems, and certainly regulation is one of them. In fact, I just spent over an hour and a half of my time talking with the administrator of the EPA about the economic impact of that agency.

This is just another example of this government reaching out to require businesses to do things that, frankly, cost money and cost the economy. Every American deserves the opportunity at a good job, and we must grow this economy. That is why I am speaking today in support of H.R. 2017, the Common Sense Nutrition Disclosure Act.

This bill protects American small businesses from unnecessary costs and regulations, which, again, is the big problem we have with growing the economy. Mainly those in the restaurant and food industries are affected by this, establishing one-size-fits-all nutritional disclosure requirements.

As a small business owner for over 40 years, I know just how daunting new regulations are. New regulations mean more money spent and countless hours of compliance.

It is estimated that if this regulation is implemented, it could cost American businesses $1 billion to comply and 500,000 hours of paper. This is a serious issue. American small businesses do not have that kind of time, nor do they have that kind of money.

During a time of slow economic growth, we should not make it harder for Americans to start and stay in business. As we have seen in just about every industry, one-size-fits-all approaches do not work.

I am proud to cosponsor this bill, and encourage my colleagues to join me in supporting H.R. 2017. This bill is common sense. It is in the name.

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

Mr. Speaker, instead of trying to water down transparency and preventive health measures, we should be focusing on what we can actively do to make this country healthier, happier, and safer, like investing in child nutrition, an issue that has broad bipartisan support. In fact, just a couple of weeks ago, the Senate Agriculture Committee passed a bipartisan rewrite of the Child Nutrition Act, and there is widespread support for reauthorizing key child nutrition policies, like the Summer Food Service Program, which really helps some of our most at-risk families ensure that kids are at school ready to learn because they have had their nutritional needs met.

By some estimates, as few as 18 percent of students who are eligible for free and reduced lunch during the school year also receive a summer meal. We can do better. The time of year should never dictate whether or not a child goes hungry in this country.

A bipartisan group of Senators agree, and they have offered an innovative solution to the issue in the bipartisan Child Nutrition Reauthorization Act. The House and our Education and the Workforce Committee should focus on issues like summer meals, which actually make a difference for families, rather than trying to prevent calorie information from being displayed large enough or in the right place where people can actually see it. God forbid.

We also should be focusing on policies like the Farm to School Program, which provide support for our local farmers and at the same time give kids the healthy meals that they need.

Educating our next generation about eating well while simultaneously introducing them to the values of farmers and growing food in our culture and on our land is a double win.

It would be great if Congress could roll up our sleeves and get to work on issues that the American people care about, rather than debating how to hide calorie information from consumers. We should be discussing how to make better nutritional information available to more people, how to feed

more kids that go hungry, how to improve our public health, and, of course, the big issues that we actually hear about, securing our borders, making sure the American people are safe and secure, investing in infrastructure, and growing our economy. That is what this body should be focused on.

I was told by my staff person that zero constituents of mine have called or written in asking me to support this bill. Three have written in opposed to this bill. The rest of them—792,000 of them—don't think we should be debating this bill. They haven't opined on it, and they continue to grow disillusioned with a Congress that is debating for a day and a half how to best hide nutritional information from them rather than improve the quality of schools, make college more affordable, make sure that they can afford their mortgage, and do something about the fact that it is getting harder and harder to get by in our country every day.

Mr. Speaker, national standards are important. They create something that consumers can recognize and can understand. Nutritional labeling standards on menus promote consistency and increased transparency. Standards make compliance easier and less costly. By engaging stakeholders in dialogue, the FDA has tried to accommodate retailers that will be affected by this bill, and worked to put this feedback into the final bill.

□ 1315

Sadly, Members of this body have responded, instead, by preemptively introducing legislation that would not only weaken the guidelines but would delay them for 2 additional years on top of the 2 years that they have already been delayed. This bill would create more confusion than it addresses. It undermines the effectiveness of the regulation by limiting a consumer's recourse for action in civil court, and it does not make consumers and the American people any healthier.

For all of these reasons and more, prominent healthcare groups across the spectrum oppose this legislation, including the American Cancer Society, the American Heart Association, the Association of State Public Health Nutritionists, the American Public Health Association, the National Physicians Alliance, the Public Health Institute, doctors, and public health advocates.

I urge my colleagues to oppose H.R. 2017 as well. Menu labeling provides the necessary information to make healthy choices when eating out. Easy access to accurate information about the foods we eat serves our Nation's public health.

By rejecting this rule, Congress will be sending the message to the rank and file on both sides of the aisle, who, hopefully, will join me in opposing this rule and in bringing this down, that Congress should have priorities that the American people have in that we need to get Congress to work on dealing with the bread-and-butter issues that concern American families every day of the week, every hour of the day.

Mr. Speaker, if we defeat the previous question, I will offer an amendment to the rule to bring up a bill to help prevent mass shootings by promoting research into the causes of gun violence, making it easier to identify and treat those most prone to committing heinous acts.

Mr. Speaker, I ask unanimous consent to insert the text of my amendment in the RECORD, along with extraneous material, immediately prior to the vote on the previous question.

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

There was no objection.

Mr. POLIS. Mr. Speaker, I urge my colleagues to bring down this rule and restore the faith of the American people and this institution and defeat the previous question. Vote ''no'' on the rule.

I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield myself the balance of my time.

The simple truth is the faith of the American people does not hinge upon the fact that we will jail a chef for an inadvertent mistake made at a pizza restaurant.

Let me take just a few minutes to recap some of the history of the Affordable Care Act and, perhaps, a lesson in civics at the same time.

I am just a simple country doctor. My understanding of how a bill became law was, perhaps, relegated to the video ''Schoolhouse Rock!'' that I saw many years ago as a child with how a bill becomes law: You are just a bill on Capitol Hill. You go to committee. You get out of committee. You come to the floor. You go to the Senate. You go to a conference committee. You come back. You get voted on, and you are on your way. But, as Paul Harvey said, then there is ''the rest of the story.''

So let's examine the process for a moment.

We have the Affordable Care Act. Here is a bill that was sort of bumped around on Capitol Hill for a little over a year's time. Finally, it did get passed into law. We had a section in the Affordable Care Act, section 4205. Now, Mr. Speaker, I do not recall which special interest wanted section 4205 placed into the Affordable Care Act. I feel fairly certain that there was a special interest that did want this language in the bill, because the entirety of the Affordable Care Act was, essentially, written by one special interest or another. Yet here is a section that was in the Affordable Care Act, that was duly voted on by the House and the Senate, and that passed in March of 2010. I voted ''no''—let me be very clear on that—as did every Republican who was in the House of Representatives at the time.

Section 4205 is not a terribly long section, and it is not terribly difficult to read. Section 4205 goes on for, perhaps, four pages, and it talks about nutritional labeling. Nutritional labeling, in and of itself, is not a bad thing; but because of the way the law is written, after its passage, it was then handed off to a Federal agency—a Federal agency that is composed not of elected Members of Congress, not of anyone who is directly accountable to any single American constituent anywhere, but the Federal agency sits down and goes about the work of interpreting what Congress intended when it passed the law and how we are going to make this work in and amongst all of the other Federal rulings and regulations that are out there.

The Food and Drug Administration sat down to go about the task of writing the rules and regulations that would govern this one section of the Affordable Care Act—this four-page section in the Affordable Care Act. They, indeed, published their work in the Federal Register on Monday, December 1, 2014. Since we are talking about font size anyway, it is 100 pages of very small font writing, three columns per page; so there is a lot of stuff here—it is pretty dense.

You have heard me mention that I am concerned about the fact that a hidden, inadvertent addition of a single slice of pepperoni on a pizza could send someone to jail for a year. That, actually, is not covered in the remarks in the Federal Register; so let me save people some time if they want to read about where the penalties arise. The penalties arise because, as a consequence of the language in the Federal Register, a law known as the Federal Food, Drug, and Cosmetic Act, is amended as a result of this work.

The Federal Food, Drug, and Cosmetic Act, section 403, reads:

> A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

That is pretty broad.

Now, if the food is misbranded, that then invokes a second part under the ''prohibited acts'' in the Federal Food, Drug, and Cosmetic Act.

Under section 331:

> The following acts and the causing thereof are prohibitive: the introduction or delivery for introduction into interstate commerce of any food, drug, device, tobacco product, or cosmetic that is adulterated or misbranded.

We go back to the word ''misbranded.''

> A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

Now we come to a food that has been misbranded and the penalty for such an act when we get to the section of the Federal Food, Drug, and Cosmetic Act, section 303, under Penalties:

> (a) Violation of section 331 of this title:
> Any person who violates a provision of section 331 of this title shall be imprisoned for not more than 1 year or fined not more than $1,000 or both.

Therein, Mr. Speaker, is the problem with the Affordable Care Act, as written and then interpreted and as it applies to existing law in the United States Code.

I would think that menu labeling, as a matter of course, is a marketing aspect. If you know that your restaurant is putting out food labeling that is accurate and upon which you can depend, great, as I may be more likely to go to such a facility; but, there, it is a voluntary choice. It goes from voluntary to compulsory under the language of the Affordable Care Act. Therein is the problem. That is the problem that Representative MCMORRIS RODGERS sought to correct of the inadvertent addition of a single food item in food that is prepared in a restaurant that has more than 20 facilities.

Think of a name brand pizza place. You may have a local franchise in your town. If you go there on a Friday night and if the calorie count is not identical to what has been posted on the menu board and someone checks, that chef could be imprisoned for a year. That is the reason that, indeed, constituents have written and that restaurant owners have written. They asked Mrs. MCMORRIS RODGERS, and she responded to their requests, and that is why we have a bill in front of us today.

The rule that is under consideration right now provides for the consideration of an important fix to a harmfully crafted law and to a poorly written regulation.

I applaud my fellow Energy and Commerce Committee member CATHY MCMORRIS RODGERS for her work and for doing all she could to bring all stakeholders together to craft a workable compromise.

Mr. Speaker, I urge my colleagues to vote ''yes'' on the rule and ''yes'' on the underlying bill.

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

AN AMENDMENT TO H. RES. 611 OFFERED BY MR. POLIS OF COLORADO

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

SEC. 5. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3926) to amend the Public Health Service Act to provide for better understanding of the epidemic of gun violence, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 6. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 3926.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority 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.''

The Republican majority may say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

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

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

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

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

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

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

The yeas and nays were ordered.

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

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 644) ''An Act to reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes.''.

DEBT MANAGEMENT AND FISCAL RESPONSIBILITY ACT OF 2015

GENERAL LEAVE

Mr. BRADY of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material on H.R. 3442, the Debt Management and Fiscal Responsibility Act.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 609 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 3442.

The Chair appoints the gentleman from Alabama (Mr. BYRNE) to preside over the Committee of the Whole.

□ 1326

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3442) to provide further means of accountability of the United States debt and promote fiscal responsibility, with Mr. BYRNE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Texas (Mr. BRADY) and the gentleman from Michigan (Mr. LEVIN) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BRADY of Texas. Mr. Chairman, I yield myself such time as I may consume.