asked some of the heads of the Federal agencies to come into the relevant committees and talk about what their plans are for implementation of these rules in the health care law?

What about these new Federal agencies that are being created even as we speak with new office space being rented and personnel being hired?

What about these waivers that, over the last 2½ weeks, have just snowballed out of the White House, and what about the health exchanges that even now our State legislatures are being asked to create?

Oversight was eliminated by the last Congress; it will not be overlooked by the next.

THE AMERICAN PEOPLE HAVE SPOKEN

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

Mr. WILSON of South Carolina. Mr. Speaker, after a year of having their requests for job creation policies fall on deaf ears, the American people have not only spoken; they've been finally heard.

When it came to job creation, the American people made it perfectly clear they are no longer willing to play the waiting game. For 15 straight months over 14 million citizens have been without jobs. Despite these dismal numbers, liberal leaders in Congress continue to push for more strangling regulations and more government spending.

I believe this is a new day, with a new way forward, including extending tax cuts and passing tax relief for all Americans, while providing the incentives to business to create jobs.

It is now time to get the economy rolling, get people back to work, and get rid of Washington's runaway spending.

In conclusion, God bless our troops, and we will never forget September 11th in the global war on terrorism.

Best wishes for a speedy recovery to Specialist Joseph Deloach and Specialist Jeremiah Ashley, wounded warriors and American heroes whom I visited today receiving world-class care at Walter Reed Army Medical Center.

TAX UNCERTAINTY COULD HURT CHARITABLE GIVING

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

Mr. PAULSEN. Mr. Speaker, Americans donate their time and resources to charitable organizations not only because of their generosity, but because they know that these actions will help enhance our communities, improve opportunities for our children, and create higher standards of living for our neighbors.

As our economy continues to stagnate, we need to do all that we can to help these charities who provide services for communities all over this country.

That's why today I want to remind my colleagues that January is fast approaching, and that means the largest tax increases in American history are just around the corner. With the traditional season of giving well under way, tax uncertainly is causing individual and corporate charitable donors to think twice before opening their wallets; and that's, in turn, worrying many charities across this country in their greatest time of need.

Mr. Speaker, it is time that this Congress take action and address this issue on behalf of all Americans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6 p.m. today.

PROVIDING FOR CONSIDERATION OF H.R. 5566 AND THE SENATE AMENDMENT THERETO

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1712) providing for consideration of the bill H.R. 5566 and the Senate amendment thereto.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1712

Resolved, That upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 5566 and amendment of the Senate thereto, and to have concurred in the amendment of the Senate to the text with an amendment as follows: in lieu of the matter proposed to be inserted by the Senate, insert the following:

"SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Animal Crush Video Prohibition Act of 2010'.

"SEC. 2. FINDINGS.

''The Congress finds the following:

''(1) The United States has a long history of prohibiting the interstate sale, marketing, advertising, exchange, and distribution of obscene material and speech that is integral to criminal conduct.

''(2) The Federal Government and the States have a compelling interest in preventing intentional acts of extreme animal cruelty.

''(3) Each of the several States and the District of Columbia criminalize intentional acts of extreme animal cruelty, such as the intentional crushing, burning, drowning, suffocating, or impaling of animals for no socially redeeming purpose.

''(4) There are certain extreme acts of animal cruelty that appeal to a specific sexual fetish. These acts of extreme animal cruelty are videotaped, and the resulting video tapes are commonly referred to as 'animal crush videos'.

''(5) The Supreme Court of the United States has long held that obscenity is an exception to speech protected under the First Amendment to the Constitution of the United States.

''(6) In the judgment of Congress, many animal crush videos are obscene in the sense that the depictions, taken as a whole—

''(A) appeal to the prurient interest in sex;

''(B) are patently offensive; and

''(C) lack serious literary, artistic, political, or scientific value.

''(7) Serious criminal acts of extreme animal cruelty are integral to the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos.

''(8) The creation, sale, distribution, advertising, marketing, and exchange of animal crush videos is intrinsically related and integral to creating an incentive for, directly causing, and perpetuating demand for the serious acts of extreme animal cruelty the videos depict. The primary reason for those criminal acts is the creation, sale, distribution, advertising, marketing, and exchange of the animal crush video image.

''(9) The serious acts of extreme animal cruelty necessary to make animal crush videos are committed in a clandestine manner that—

''(A) allows the perpetrators of such crimes to remain anonymous;

''(B) makes it extraordinarily difficult to establish the jurisdiction within which the underlying criminal acts of extreme animal cruelty occurred; and

''(C) often precludes proof that the criminal acts occurred within the statute of limitations.

''(10) Each of the difficulties described in paragraph (9) seriously frustrates and impedes the ability of State authorities to enforce the criminal statutes prohibiting such behavior.

"SEC. 3. ANIMAL CRUSH VIDEOS.

''(a) IN GENERAL.—Section 48 of title 18, United States Code, is amended to read as follows:

"'§ 48. Animal crush videos

'' '(a) DEFINITION.—In this section the term ''animal crush video'' means any photograph, motion-picture film, video or digital recording, or electronic image that—

'' '(1) depicts actual conduct in which 1 or more living non-human mammals, birds, reptiles, or amphibians is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury (as defined in section 1365 and including conduct that, if committed against a person and in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242); and

'' '(2) is obscene.

'' '(b) PROHIBITIONS.—

'' '(1) CREATION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly create an animal crush video, if—

'' '(A) the person intends or has reason to know that the animal crush video will be distributed in, or using a means or facility of, interstate or foreign commerce; or

'' '(B) the animal crush video is distributed in, or using a means or facility of, interstate or foreign commerce.

'' '(2) DISTRIBUTION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly sell, market, advertise, exchange, or distribute an animal crush video in, or using a means or facility of, interstate or foreign commerce.

'' '(c) EXTRATERRITORIAL APPLICATION.—Subsection (b) shall apply to the knowing sale, marketing, advertising, exchange, distribution, or creation of an animal crush video outside of the United States, if—

''(1) the person engaging in such conduct intends or has reason to know that the animal crush video will be transported into the United States or its territories or possessions; or

''(2) the animal crush video is transported into the United States or its territories or possessions.

''(d) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 7 years, or both.

''(e) EXCEPTIONS.—

''(1) IN GENERAL.—This section shall not apply with regard to any visual depiction of—

''(A) customary and normal veterinary or agricultural husbandry practices;

''(B) the slaughter of animals for food; or

''(C) hunting, trapping, or fishing.

''(2) GOOD-FAITH DISTRIBUTION.—This section shall not apply to the good-faith distribution of an animal crush video to—

''(A) a law enforcement agency; or

''(B) a third party for the sole purpose of analysis to determine if referral to a law enforcement agency is appropriate.

''(f) NO PREEMPTION.—Nothing in this section shall be construed to preempt the law of any State or local subdivision thereof to protect animals.'.

''(b) CLERICAL AMENDMENT.—The item relating to section 48 in the table of sections for chapter 3 of title 18, United States Code, is amended to read as follows:

''48. Animal crush videos.'.

''(c) SEVERABILITY.—If any provision of section 48 of title 18, United States Code (as amended by this section), or the application of the provision to any person or circumstance, is held to be unconstitutional, the provision and the application of the provision to other persons or circumstances shall not be affected thereby.

''SEC. 4. PAYGO COMPLIANCE.

''The budgetary effects of this Act, for purposes of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendments between the Houses.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on House Resolution 1712.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker and Members, I am happy to start off this part of our session with this resolution that provides that the House concur in the Senate amendments to H.R. 5566, with an amendment.

With this resolution, we are adopting nearly all of the Senate's amendments to our House-passed bill addressing the very important subject of animal crush videos.

I emphasize that the reason this resolution doesn't adopt the Senate-passed bill in its entirety is due to concerns that criminalizing attempts and conspiracies in this area creates a serious constitutional concern about prior restraint of speech. And as chair of the Judiciary Committee, I hold myself open to the discussion or inquiries of any Member of the House about the constitutional aspect of the remark I just made.

We need to remember that the history of this bill is thus: the prior law that we passed was struck down as unconstitutional by the Supreme Court, and that's why we are here doing it again. We think we've got it right this time.

As a strong supporter of this bill, and of the law, I have tried to make sure that we pass a constitutional bill. To stop crush videos, we need a law that stays on the books, and that's what this resolution will do.

The underlying subject is one that we have discussed previously. In summary, there is a market for videotapes and still photographs depicting, typically, small animals being slowly crushed to death. Don't ask me about the psychiatric make-up of people in our society that go in for this sort of thing. But it's, unfortunately, a reality.

We adopted a bill in 1999 which became a law intended to ban the creation, sale, and possession of the depiction of such acts. They became known as crush videos. But in April, the Supreme Court, in United States v. Stevens, invalidated the statute. The Court held that the law was overbroad and violated the Constitution's First Amendment.

The chairman of the Subcommittee on Crime, Chairman BOBBY SCOTT of Virginia, held a hearing in May and heard from some good witnesses who all agreed that a narrower legislative approach would be constitutional and survive court challenges.

The bill that we passed was narrower than the original law. The most important difference is that the bill would only prohibit the sale of crush videos that are obscene. This would likely address the key flaw in the original statute because obscenity is outside the protection of the First Amendment to the Constitution.

In September, the Senate took up H.R. 5566 and amended it. The Senate version also used the same approach that we did to such obscene depictions. The only difference is that the Senate bill prohibits the creation of crush videos, which I believe is acceptable because it includes an interstate commerce requirement.

However, that provision and the prohibitions on distributing crush videos, domestically or outside the United States, include prohibitions on attempts and conspiracies which would, in effect, impose punishment equal to that resulting from a completed offense. This is particularly problematic with respect to the creation of expressive materials, no matter how little redeeming value they may have.

□ 1430

We should not enact a prohibition on activity or discussions about creating materials which, as yet not completed, may or may not turn out to be obscene. Justice Potter Stewart explained the problem with describing when something is obscene in Jacobellis v. Ohio by saying, ''I know it when I see it.''

Until an image is completed, there is no way to know that it will be obscene. Once completed, then it can be prosecuted as such. Therefore, the version of the bill before the House today adopts every change that the Senate proposed, except the problematic part concerning attempts and conspiracies.

The bill we passed was a strong and constitutional measure addressing the problem of crush videos, and the bill now before us is no less effective with these changes, and so I urge support of the bill.

I particularly commend a member of the Judiciary Committee, ELTON GALLEGLY, and my colleague from Michigan, GARY PETERS, who both have worked in an effort to enact legislation addressing the problem.

I reserve the balance of my time.

Mr. POE of Texas. I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for consideration of legislation to prohibit the creation and sale of so-called ''animal crush videos.'' These videos depict small animals being slowly crushed to death by women using their bare feet or while wearing high heels.

The FBI, the U.S. Department of Education, and the U.S. Department of Justice consider animal cruelty to be one of the early warning signs of potential violence by youths.

All 50 States and the District of Columbia have laws banning acts of animal cruelty such as these portrayed in those videos. However, animal crush videos often do not reveal the identity of those involved, making it difficult for States to prosecute the perpetrators for the underlying animal cruelty. Federal legislation is necessary to address the interstate sale and distribution of these videos, which is often beyond the reach of many States. Federal penalties will serve as an additional deterrent to those who engage in this behavior.

H.R. 5566, the Animal Crush Video Prohibition Act of 2010, responds to the Supreme Court's recent decision in U.S. v. Stevens, which invalidated the Federal animal cruelty statute codified at 18 U.S.C., Section 48.

Originally enacted in 1999, with broad bipartisan support, the statute attempted to address animal cruelty, including crush videos. The law was successful in virtually eliminating the

market for those videos. In light of the Supreme Court's decision, however, the animal crush video industry has re-emerged.

H.R. 5566, sponsored by Mr. GALLEGLY and Mr. PETERS, responds to the Stevens decision by specifically criminalizing only animal crush videos. The bill limits this new criminal offense to only obscene material. The Supreme Court has recognized Congress' authority to regulate obscene material as a category of unprotected speech under the First Amendment. The legislation also specifically omits customary and normal veterinary videos, and any depiction of slaughtering, hunting, trapping of animals for food. With this added safeguard for hunters, I support this legislation.

The House of Representatives passed this bipartisan legislation by a vote of 416–3 on July 31 of this year. In September, the Senate approved a revised bill to expand the prohibition to include the creation and noncommercial distribution of animal crush videos, including those videos created overseas but distributed in the United States.

Today we have the opportunity to send the bill to the President's desk and put an end to the revived animal crush industry. Unfortunately, this resolution does not do that; instead, it removes any culpability for those who attempt to make these videos and reduces penalty for coconspirators. By sending the bill back to the Senate today, we guarantee the animal crush legislation probably will not be completed by this Congress and that the animal crush market will continue to grow with little fear of prosecution. It is my hope this outstanding issue can be resolved quickly, however, so that our efforts to curb the proliferation of animal crush videos in this Congress will be successful.

I reserve the balance of my time.

Mr. CONYERS. I yield to our distinguished colleague from Oregon, EARL BLUMENAUER, for such time as he may consume.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this bill, and I appreciate the expeditious work of the committee bringing this legislation forward.

Mr. CONYERS. Will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Michigan.

Mr. CONYERS. I just wanted to congratulate Judge Poe on his comments about the bill. I agree with him. But let's keep hope alive that the other body will not fail us at this moment with so few days left.

Mr. BLUMENAUER. Reclaiming my time, I appreciate the opportunity to speak. I appreciate the quick turnaround. It is a little frustrating. I admire the persistence of our friend, Mr. GALLEGLY. It has been my pleasure to have worked with him for over a decade on this legislation. We thought we had it taken care of when it was woven into the farm bill of 2002. Unfortunately, as has been referenced, the Supreme Court decision earlier this year created a problem and brought the problem right back.

It was a pleasure to join again with Mr. GALLEGLY, Mr. PETERS, and Mr. MORAN and others, as a broad bipartisan group introduced the legislation that same week in an attempt to narrow the scope of the ban and ensure that it met the First Amendment standards. I think we have reached the point where we have done that.

I am a little frustrated, as I know people who care deeply about this legislation, that it seems to go back and forth on something where there is broad bipartisan awareness, agreement, and, certainly with the general public, that people ought not to profit out of torturing animals. This is, as is referenced, illegal virtually everywhere. It is disturbing in terms of what happens. And it isn't just issues of animal cruelty. Research has shown that the people who are involved with this despicable trade, both in terms of the dissemination and use of it, are much more likely to engage in other criminal acts.

I am hopeful that at this point we might be able to bring this to a conclusion, to be able to pass this legislation to provide these protections, to get this out of the stream of commerce and be able to provide the protections that the public expects us to provide. We were given an opportunity from the Supreme Court to be able to narrowly craft a response. I think legislatively we have done that. I am hopeful that we can act expeditiously, passing this today and working with the Senate to make sure that it is enacted into law and we meet this objective.

Mr. POE of Texas. I yield back the balance of my time.

Mr. CONYERS. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and agree to the resolution, H. Res. 1712.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING GAIL ABARBANEL AND THE RAPE TREATMENT CENTER

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 716) recognizing Gail Abarbanel and the Rape Treatment Center, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 716

Whereas in a study conducted by the Department of Justice and the Centers for Disease Control and Prevention, researchers found that 1 in 6 women are victims of rape or attempted rape;

Whereas on average, a person is sexually assaulted in the United States every 2½ minutes;

Whereas Gail Abarbanel, the founder and director of the Rape Treatment Center at the Santa Monica–UCLA Medical Center, created the Fast Track Forensics Program, an innovative program that speeds up the processing of DNA evidence to assist local law enforcement agencies;

Whereas delays in processing rape kits hamper investigations, jeopardize public safety, and result in lost justice for the victims who report their rape to the police and consent to the 4- to 6-hour rape kit collection process;

Whereas the Rape Treatment Center is nationally recognized for its exemplary treatment, education, and prevention programs; and

Whereas the work of Gail Abarbanel and the Rape Treatment Center helps sexual assault victims become whole again by addressing the social, emotional, and physical pain resulting from the violence of sexual assault: Now, therefore, be it

Resolved, That the House of Representatives—

(1) applauds Gail Abarbanel for founding the Rape Treatment Center and creating the Fast Track Forensics Program;

(2) commends the Rape Treatment Center for its work in providing the necessary services to victims of sexual assault;

(3) calls upon local law enforcement agencies and State legislatures to work towards eliminating the delays in processing rape kits by utilizing innovative programs such as the Fast Track Forensics Program; and

(4) urges the Congress to support programs that facilitate the timely processing of DNA evidence to assist local law enforcement agencies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

□ 1440

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, Gail Abarbanel is the director of the Santa Monica UCLA Medical Center's nationally known Rape Treatment Center. In 1974, the center became one of the first hospitals in the United States for establishing a protocol for treating victims of sexual assault. Today, under the leadership of Ms. Abarbanel, the Rape Treatment Center serves as a national model for its exemplary treatment, education, and prevention programs.

She is also responsible for innovative programs such as the Stuart House for sexually abused children and the Verna Harrah Clinic to provide state-of-the-