

the effort to combat corporate crime, we heard from the President something that was more of a pep talk than a policy pronouncement. He called upon us to reenact all the laws and regulations we already have and to say this time we really mean it.

Let us face it. The biggest reason for crime is that under certain circumstances crime pays, and the biggest reason why circumstances arise in which people conclude that crime pays is inadequate law enforcement. That is true with grand theft auto. It is true with corporate grand theft. And unfortunately the other party for the last 6 years has been working to undermine the enforcement at the SEC. As David Ruder, a former Republican head of the SEC, said in 1995, the Republican Congress is dealing with the SEC as though it were the enemy instead of the policeman on the beat.

Earlier this year, the President put forward a budget to this Congress which cut the SEC budget in real terms, allowed no increase for inflation, and cut the enforcement budget. This spring, I proposed to the Committee on Financial Services an increase in the authorization of the SEC of \$120 million to focus enforcement on the financial statements filed by the thousand largest companies in America. Every Republican on our committee voted no, every Democrat voted yes, the amendment went down.

It is time for us, if we are serious about dealing with securities crime, to fund the SEC. But it is time for us to do more as well. The bill passed by the Senate, the other body, is a good first step, but I hope in conference, or perhaps in a second bill, that we go beyond that.

There are a whole host of ideas that we ought to include. We ought to explore the idea of having our thousand largest companies audited every 6 months instead of every year. We have been auditing every 12 months since the 1933 act. Certainly the speed by which decisions are made, the speed at which stocks are bought and sold, is far more than twice as fast as it was in 1933. And if WorldCom is going to try to misstate its income for five quarters, it is better that they are caught after two quarters than after four quarters, assuming the audit is competent. And I will get to that in a second.

In addition, the Federal Government ought to certify some stock analysts as being genuinely independent. And to be independent, under this standard, it is not enough that the particular analyst does not get direct cash from the issuer, but rather that the employer of the analyst do no underwriting, consulting or in any other way receive money from the very companies that are being analyzed.

Now, some may accept a lower standard, and they are welcome to, but to be certified as independent, I would expect an analyst to be loyal to his or her employer. And, therefore, it would be good to have analysts who are em-

ployed by those who are not getting money from the very companies that are being analyzed.

Mr. Speaker, the Chair of the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUVIN), was on the morning shows this past Sunday indicating that Arthur Andersen had a peculiar problem that has led to a great overrepresentation of Arthur Andersen among the problem audits. He indicated that the structure of that firm was such so that the engagement partner, the salesman partner, had total power, and the technical review partners were not necessarily even consulted before the audit was concluded.

I had put forward to our committee back in April a requirement that accounting firms dealing with publicly traded companies avoid that Arthur Andersen structure and use a structure that almost all of them have always used, and that is that the technical review partners who are insulated from the client make the final determination. Unfortunately, even while the Republican Chair of the Committee on Energy and Commerce is saying this is the problem, the Republicans on our committee are voting against a solution.

It is time that we go beyond rhetoric and adopt legislation. We have a long way to go in restoring confidence to our capital markets.

H.R. 5110, OMNIBUS CORPORATE REFORM AND RESTORATION ACT OF 2002

The SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I believe that there are a number of issues that deserve the attention of this body, and I asked to address this House at this time because I have completed the assignment that was given to me, or the initial part of the assignment given to me by the pain of my constituents. Just a few moments ago I announced that I would file, and now I have filed, the Omnibus Corporate Reform and Restoration Act of 2002, H.R. 5110, an omnibus bill that lays clearly on this Congress an opportunity to make sweeping corporate changes now.

I said before that there is no pride of authorship. There should not be. We should work together on behalf of the American people. And if by chance this bill gets dissected and pieces of it pass, it may not be the whole but it will be the part. Right now, this bill encompasses a number of provisions that, if passed, could immediately address some of the concerns that we have.

We will never get to the point of restoring investor confidence until we stabilize and allow the American people to have a sense that we are inside the board room peering in to oversee

the proper activity of those who govern the corporations of America. We will never restore confidence until we again see corporate executives as leaders of United Way and Civic Citizens, that many of us have come to know and appreciate. We will never restore corporate confidence and investor confidence until we determine that those who have been broken and lost such large amounts of money, like the grandmother in my constituency that lost \$150,000 as a new investor. That is a lot for someone who is just exposing themselves to the market.

This bill will, in fact, do something historic and different. It will make for the first time unemployed employees, fired employees, whose company files bankruptcy, secured creditors. What does that mean? Just a few days before Enron filed bankruptcy, they gave \$105 million in retention bonuses to corporate executives. On Sunday, they filed for bankruptcy. On Monday, they laid off 5,000 of my constituents, many of them without severance pay, who lost their pensions and 401(k)s. For the last 6 months, we fought with the bankruptcy court because they were not secured creditors. They had no status in the bankruptcy proceedings. This bill will give them secured creditor status. They will be inside the courtroom to be able to fight for their benefits.

This bill provides for criminal penalties for altering or destroying documents. We know what happens with that. All of us panic sometimes. Everyone wishes they had not made the wrong decision, tearing up a piece of paper to cover up. Coverup is worse than a crime. So we need to make sure they do not run to their office by mistake or otherwise and tear up documents.

The bill provides for prohibition on loans to officers and directors. I frankly think we might be able to regulate it, but clearly we can see from WorldCom what can be done in crumbling one's own company. This will help in curtailing large loans by boards of directors to company executives; it will stop creating offshore companies and inside special companies that the board does not even know anything about and that is used to puff up the bottom line.

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Also to protect the pensions of employees, and many others. I believe that the Committee on the Judiciary, of which I am a member, should hold hearings on whether or not enhanced criminal penalties or criminal initiatives need to be passed.

I move now to share with Members, we had a surplus. In fact, in March 2001, we had a \$5.6 trillion surplus with a decreasing debt. Because of the large tax cut that went nowhere and no one can remember, we now have no surplus. Yet we have the responsibility to our senior citizens because many of them are not able to pay rent or to get good food

because they have an enormous prescription drug cost. We need a guaranteed prescription drug benefit. Where is our heart in America? Where is our reason and our respect for the Greatest Generation?

I would like this to be bipartisan, but we need it to work; and the Republican plan is a voluntary card that insurance companies have. And if they do not make the money in their area, as they did not in my area, then they will close up shop. There is a period when they stop paying for the prescription drugs.

Mr. Speaker, there is a lot left to be done. Let me conclude by saying we are working on the homeland security department, and I am for it. But as we create this Department, we cannot forget our civil liberties and dual process. We must have those as we move this Department forward.

Mr. Speaker, this is work undone. We must get to work in this Congress.

REINSTATE CALIFORNIA'S MEDICAID UPPER PAYMENT LIMIT

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. DREIER) is recognized for 60 minutes as the designee of the majority leader.

Mr. DREIER. Mr. Speaker, I know that we have been talking about a wide range of issues today, corporate responsibility, establishing the Department of Homeland Security, and many other challenges that we are facing; economic recovery, of course, being very important. But I would like to take a few minutes to share with our colleagues some prepared remarks that I have on a very unique challenge that we as Californians face when it comes to dealing with the issue of health care.

As I said, California's public health care system is one of the most unique in our country. Unlike most States which run their own hospitals or States which have no public hospitals at all, California relies on a network of county-supported public hospitals working in conjunction with a network of private safety net hospitals. Together these public and private hospitals care for over 5 million Californians eligible for Medicaid and an additional 7 million Californians who are uninsured.

Obviously, supporting this network of health care for low-income Americans requires a reliable source of funding. California, like a number of other States, relies heavily on Federal dollars paid through what is known as Medicaid's Upper Payment Limit Program. The safety net hospitals in my County of Los Angeles receive over \$120 million each year through the Upper Payment Limit Program. UPL was initiated a decade ago based on the recognition that public hospitals are the hospitals of last resort for most needy patients.

It is a mechanism that allows qualified public hospitals to receive reim-

bursement for services at 150 percent of the Medicare allowable payment rate. Only city and county public hospitals which provide trauma and emergency room services to a large number of uninsured and low-income patients are eligible for the program. The reason for the increased payments is very simple, there is no market incentive for hospitals to offer emergency services to patients who will never have the means to pay for expensive procedures.

So it was with great dismay this past January when I learned that the Center for Medicare and Medicaid Services had instituted a rule to actually lower the upper payment limit and reduce Medicaid reimbursements for city and county public hospitals to 100 percent of the Medicare allowable payment rate.

Mr. Speaker, implementation of this rule will have immediate and devastating consequences for the public health system in my State. By the time final implementation of this new policy is complete, California will lose over \$300 million in Medicaid funding each year, an amount that cannot be replaced by any State or local source. The stated explanation for reducing UPL is that certain States were misallocating UPL payments and using them for non-Medicaid-related expenditures, and we all understand that concern; and we want to make sure that those States are in fact getting back on track.

While several States were identified as misusing these Federal Medicaid dollars, it is very important to note that California was not among them. In fact, a number of States did misuse UPL dollars; California was not one of those States. In fact, we never spent any Federal Medicaid dollars on anything other than public health care.

In its haste to close the so-called upper payment limit loophole, CMS has issued this regulation with too broad a stroke. This lowered upper payment limit punishes not only the States that were abusing Federal funds, and they should be punished, but it has hurt States like California which were operating properly.

This program for 10 years, under both Democrats and Republicans, has been implemented and strongly supported. Moreover, this regulation ignores the will of this Congress in regards to the upper payment limit for public hospitals. When the allegations of misused UPL funds came to light several years ago, this body responded by severely limiting these supplemental payments and by fixing the upper payment limit at the 150 percent level.

As I said, the House and Senate reached a bipartisan agreement that was codified when the Medicare and Medicaid Beneficiaries and Improvement Act was signed into law in the 106th Congress. By lowering the Medicaid upper payment limit to 100 percent, CMS is undoing a carefully crafted compromise that balanced the Federal Treasury with the need to ensure

that health care remain available to the most vulnerable of our fellow citizens.

Mr. Speaker, as I stand here today, there may be skeptics out there who say that when compared to the overall Medicaid budget for the State of California, the \$300 million received under the 150 percent UPL is nothing more than a drop in the bucket. Well, to that let me say that the financial situation in California, and indeed in many of our State and local governments across this country, is so constrained that not one Federal dollar can be cut from the Federal Medicaid allocation without it adversely affecting the availability of care for Medicaid patients.

Just recently, Los Angeles County revealed that it plans to close nearly a dozen community health clinics and lay off over 5,000 health care workers because of a lack of budgetary resources. What alarms me the most is that the county's budget does not include the tidal wave of Federal Medicaid cuts that are scheduled to go into effect next year, including the reduction in the upper payment limit.

The fact is, if the UPL reduction is implemented by CMS, health care for low-income and uninsured patients will be compromised as a result. If the counties across California are forced to reduce hospital services because of decreased Federal support, those patients faced with long waits at the few remaining open public hospitals will turn to private hospitals for emergency care. While Federal law prohibits private hospitals from refusing to treat uninsured emergency care patients, it does not prohibit them from closing their emergency room doors.

Faced with overflowing emergency rooms and inadequate Medicaid reimbursements, this is the choice that many private hospitals would be forced to make. Therefore, a decreased upper payment limit would force both public and private hospitals in California to curtail emergency and trauma care services resulting in an absurd situation where a constituent of mine from Claremont, California, could conceivably be forced to drive over 30 miles in rush hour traffic to the Los Angeles USC Medical Center to find an open trauma center. The prospect of such an occurrence is simply unacceptable.

Mr. Speaker, I wanted to make clear that, in stating my opposition to the reduction of the UPL, I am not asking for special treatment for California. I am simply asking for fair treatment of California.

Under its federally approved Medicaid UPL, California follows some of the most stringent requirements for UPL eligibility. To access those funds in California, more than 25 percent of a hospital's patients have to be Medicaid-eligible or uninsured. I reiterate that California has exclusively spent the money that it has received under the UPL program on health care, not on anything else. To punish California for the misdeeds of other States is unwise and unfair.