

the SEC to impose civil monetary penalties on persons who violate the securities laws such as companies, officers, directors, auditors, and lawyers and to bar unfit officers and directors of publicly traded corporations without having to go to court to do so. The amendment would also allow the SEC to subpoena financial records as part of an official SEC investigation without notifying the subject of the records request. This amendment would also increase the maximum civil fines the SEC can impose on securities laws violators under current law and the new authority provided by this amendment. Today's fines of \$6,500 to \$600,000 per violation would increase to \$100,000 to \$10 million.

Auditor certification. A second amendment I intend to offer would require that auditors of publicly traded corporation provide a written opinion on whether a client company's financial statements fairly present the financial condition of the company. The Sarbanes bill has a similar provision with respect to CEOs and CFOs. Many think this is already required of auditors of publicly traded companies, but there is no provision in current law that imposes such a requirement; there is only guidance pursuant to SEC regulation.

Auditors communication with board of directors: My third amendment would require that an auditor of a publicly traded corporation discuss with the Audit Committee on the Board of Directors the "quality, acceptability, clarity, and aggressiveness" of the company's financial statements and accounting principles. This amendment will eliminate any excuse that the Board of Directors of a company didn't know what the company was doing.

There were many investors and commentators in the 1990's who expressed their awe of the astronomical growth in the stock market by saying it was too good to be true. Well, they were right. It was too good to be true, and now we know that. This bill, particularly with some strengthening amendments will bring credibility and accuracy back to the financial statements of our publicly traded corporations. It will bring reality into the marketplace and make the deceptive practices of the 1990's the true exception rather than the rule.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DELAYING ACTION ON S. 2673

Mr. NELSON of Florida. Madam President, it is my understanding that what has happened here is that our friend and colleague, the senior Sen-

ator from Michigan, has asked for unanimous consent, earlier, and it was denied by the senior Senator from Texas, in order to proceed with the offering of an amendment that would considerably strengthen the underlying bill that we have under consideration.

It is with a heavy heart that I saw the parliamentary tactics—clearly within any Senator's opportunity to utilize—to delay a piece of legislation that would address the issue before us that is resonating in the hearts of every American, that being the subject of corporate greed.

Indeed, what we have seen is that which is obviously resonating because I am told the stock market has gone down almost 300 points today, down to a range of about 8,800. You would think folks would realize that the stock market is a reflection of the confidence of the American people, not only in the economy but in a lot of the engines that drive the economy.

Most of the great corporate structures are very solid financially as well as ethically, but having seen some of the lapses in ethical judgment have led to some of the exposes that we have seen over the course of the last months, I am rather surprised to see these parliamentary delaying tactics by folks from the other side of the aisle when in fact what the American people would like to know is that their Representatives in the U.S. Congress are responding with very tough laws enacted to address the problems of corporate greed.

We can talk about the Enrons. We can talk about the WorldComs. We can talk about whatever. Lord knows what is going to be next. But that is why Senator LEVIN and I will be coming to the floor after being denied, tonight, the opportunity to offer an amendment that will strengthen the underlying bill. We will come to offer reforms aimed at preventing corporate fraud and punishing its perpetrators.

The senior Senator from Michigan, as the Chairman of the Armed Services Committee, lends an expertise to this body in matters of defense. He has a perspective that, to keep America strong from a military standpoint, we have to be economically strong and we have to be morally strong. So that is getting right to the heart of what we are doing, trying to enact a law preventing the perpetrating of corporate fraud or then seeing that the perpetrators are punished.

There were at WorldCom 17,000 workers who received pink slips. While it was realizing \$1.1 billion in losses in the retirement funds of those employees, and while those 17,000 employees were getting those pink slips, the corporate executives were attending a retreat in Hawaii. One of them was putting the finishing touches on a new \$15 million mansion. I am not absolutely sure, but I think that person is one and the same person whose \$15 million mansion is in my State.

Then late last year, Global Crossing laid off 1,200 people, giving them no

severance package, while the CEO there walked away with hundreds of millions of dollars. Is there something wrong with this picture? Yes, there is. And the American people are feeling it. Part of that is what we are seeing resonating in the plunge of America's stock markets.

So last summer, while Enron executives were selling their shares for hundreds of millions of dollars and protecting their portfolios, their employees and their retirees lost more than \$1.2 billion in retirement savings.

Sadly, that includes Janice Farmer, a former Enron employee who is now a retiree. She lives in Orlando. Janice Farmer lost her whole savings—\$700,000—in her retirement plan with Enron.

Then, if you will recall, the pension fund of the State of Florida lost \$335 million—more losses than any other State—from Enron stock purchases.

When we had a hearing in the Commerce Committee with the managers of Florida's pension fund, which covers all of our public employees in Florida, the testimony came out that the money managers of that fund were buying Enron shares based on the management's and the company's assertions that everything was OK. But it wasn't. The stock was dropping like a rock, but, oh, by the way, not before company executives had unloaded their shares.

In the last 18 months alone, we have seen corporate abuses of monumental proportions. People have had it. Their representatives in Congress, I hope, have had it. I can tell you I have had it. So has my colleague, Senator LEVIN. Eventually, after we have to go through all the parliamentary rankling, we will be allowed to offer our amendment.

We must act now to protect taxpayers and employees and investors. We must prevent huge losses for public institutional investors.

Now we are looking sadly as thousands of layoffs, earnings and restatements by more than 300 companies with billions of dollars lost by ordinary people. The victims are the ones demanding the reforms that we are talking about today. Unfortunately, because of the objections rendered by that side of the aisle, we are not able to take that up today.

Those victims and the American people who believe in a strong economy want us to act strongly and swiftly to punish such corporate abuse and to prevent corporate abuse. That is why Senator LEVIN and I want to introduce stronger enforcement measures.

We have a package of three amendments. They complement the Sarbanes bill by streamlining and strengthening procedures to punish corporate and auditor misconduct.

There is a glaring shortcoming of our current statutes. The Securities and Exchange Commission is essentially powerless today, even after conducting an investigation and even after finding

wrongdoing. What the SEC needs is more enforcement authority.

The amendments that Senator LEVIN and I are offering will strengthen civil penalties and provide for more enforcement authority over corporate misconduct. And it will do it in several ways.

First, these amendments will grant the SEC administrative authority to ban unfit officers and directors from publicly traded corporations. And the SEC will be able to do so without having to go through the lengthy court proceedings in advance that makes it so difficult under the present law to get anything done. Their decisions, however, will be subject to judicial review so that we have the checks and balances.

Yesterday, the President gave a speech on Wall Street. He echoed the idea that unscrupulous officers and directors should not be able to serve in that capacity again. But he offered nothing to enforce that principle.

I hope the President will realize that he was a day late and a dollar short—that his proposal did not have the strength and the backbone behind it. What we offer here will allow the SEC to have the authority to remove crooked executives.

This amendment also will increase the maximum civil fines that the SEC can impose on violators of securities laws and increase those by manyfold. Future fines against crooked executives would range from \$100,000 up to \$2 million. Right now some of the fines are only \$6,500. When you are dealing with white-collar crime, you have to hit the criminals where it hurts—in the pocketbook.

Our amendment also broadens the authority of the SEC to impose fines on companies, officers, directors, auditors, and lawyers. Currently, the Commission can only impose fines on narrow categories of regulated individuals, such as brokers and dealers. But this amendment would allow the SEC to cast the net wider and go after a broad range of bad actors who engage in fraudulent conduct.

Earlier this year, Senator CARNAHAN and I introduced legislation advocating that the SEC take a tough enforcement approach, including criminal prosecutions whenever necessary. We also sought to end the cozy relationships among company executives, auditors, and directors, money managers, analysts, lawyers, and others who create this incestuous kind of relationship that does nothing but undermine the confidence of the American people in the corporate structure of this country.

Senator LEVIN and I are glad to see that a consensus is coming to embrace this approach, and if the other side of the aisle will ever let us bring this to a vote, it will be widely accepted in this body.

The recent Enrons, WorldComs, and other financial tragedies have demonstrated that white-collar crimes can

be incredibly damaging—robbing hard-working Americans of their jobs, their savings, and their retirements.

There is simply no justification for handling corporate wrongdoers with kid gloves. Earlier today Senator LEAHY pointed out that if you defraud the public you must go to jail.

I came over here hoping that I could give a speech to support Senator LEVIN before we adopted this amendment. But I guess it is going to be Friday, or if they drag us on, I guess it will be Monday, or Tuesday. But we will pass this amendment, and we will pass this bill. It is a reflection of the will of the American people to keep our country strong and to keep our country free.

I yield the floor.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 7, 2002 in St. Petersburg, FL. Sonny Gonzales and his friends were walking to their limousine after a gay pride party when an angry man approached them in a parking garage. "The first thing out of his mouth was, 'faggots,'" said Gonzales. The man taunted the group, screamed obscenities, and then punched Gonzales and his friends. Gonzales suffered a head laceration. His partner, Stephen Hair, 25, suffered a skull fracture, a cracked sinus, and a broken tooth trying to defend him. Authorities arrested Devin Scott Angus, 20, in the attack. He was charged with aggravated battery with great bodily harm and battery evidencing prejudice.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LOW MEDICARE REIMBURSEMENTS

Mr. SPECTER. Madam President, I submit for the CONGRESSIONAL RECORD several additional supporting documents regarding Medicare Metropolitan Statistical Areas referenced in my statement on Monday, July 8, 2002.

I therefore ask unanimous consent that the additional documents be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BERWICK HOSPITAL CENTER,

Berwick, PA, July 3, 2002.

Senator ARLEN SPECTER,
Scranton District Office,
Scranton, PA.

DEAR SENATOR SPECTER: I am writing to reiterate our support for the proposed increase in Medicare Reimbursement Rates for hospitals in Northeastern Pennsylvania. The proposed increase would mean an additional \$800,000 in increased annual reimbursement to Berwick Hospital Center.

This increase, if granted, would go directly for training and recruiting health care personnel who are in critically short supply in our area. The hospital currently has 19 registered nurse and 6 licensed practical nurse vacancies. In addition, there are 10 vacancies in the support departments, such as laboratory and radiology. A significant factor in these vacancies is the higher wages and benefits that are paid in the Philadelphia and New York metropolitan areas that are within a 2.5 hour drive from our hospital. Our hospital cannot afford to match these urban wages due to the disparity in our Medicare Reimbursement levels.

As such, the proposed increase in Medicare Reimbursement is critical to stop the outmigration of skilled health care workers from our area. Since the average age of nurses in our state is now approaching 45, in the next decade when the Baby Boomer generation reaches retirement age, there will be no nurses and other support personnel to take care of their medical needs in our community. A concerned effort to improve educational opportunities for high school graduates, as well as improved wages for existing workers is needed.

Finally, I would urge the Congress to take immediate action on this issue. It will take years to reverse the current trend, through support of new educational programs, and other programs to retain the existing workforce. Postponing a decision will make the current crisis worsen to the point where the health care delivery system in our community will not function.

MARIAN COMMUNITY HOSPITAL,

Carbondale, PA, July 8, 2002.

Hon. ARLEN SPECTER,

U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of Marian Community Hospital, its Board of Directors, and the greater Carbondale area community, which we serve, we thank you for the efforts that you, Representative Sherwood and your respective staffs have committed to addressing the disparity caused by the Medicare wage index.

We know that you are keenly aware of the challenges facing the hospitals in our region but we would like to share with you the following points that were communicated to our Board of Directors through our current operating budget:

Over half of the Hospital's healthcare service and activities are provided to patients who are poor and elderly. The reimbursement received from the federal government for services provided to these patients under the Medicaid and Medicare programs are not sufficient to cover the cost of care (approximately 55% of the hospital's costs is for salaries and fringe benefits).

For the fourth year in a row, revenues from operations have not been or expect to be adequate to cover the cost of providing care and, accordingly, savings intended for building and equipment replacement were used to cover the unreimbursed costs (Pennsylvania Cost Containment Council indicates these losses are consistent for those hospitals residing in Northeastern Pennsylvania).