

leadership of Senator ENZI, is proposing a bill which will expand rather aggressively student loans, while saving money for the Federal taxpayer by addressing excesses in the lending community.

In fact, the proposal from the HELP Committee will increase Pell grants, will increase the availability of loans to students, and will reduce the interest rates on those loans. If we do not go forward with reconciliation and use reconciliation as a vehicle to protect this higher education initiative that comes out of the HELP Committee, we will actually end up increasing the costs to students. This letter is totally and obscenely inaccurate on that point.

It is equally inaccurate on the issue of pensions. Without reconciliation instructions on pensions, we are going to see more and more companies thrown into bankruptcy. As a result, the taxpayers are going to have to pick up the pension obligations of those companies. The people who benefit from those pensions are going to see their pensions dramatically reduced because, under the bankruptcy rules, you can significantly cut your pension liability. But if we correct the pension laws and if we use reconciliation to increase the premium cost of the pensions, which will be paid primarily by the corporations, we will be able to save some of the pensions which are now in dire straits.

The only way we can do this is probably through reconciliation. So if you don't have reconciliation, you are going to see more companies going into bankruptcy. You are going to see more pensions being wiped out. And you are going to see more employees—who have worked their whole life, invested in their company—find that that pension, which they thought they had, is actually going to be cut, if you follow the thought process which is being proposed here by the Democratic leadership of the Senate and the House of Representatives and which is totally the opposite of what their language in this letter talks about.

It is a total inaccuracy; 180 degrees different from the actual language of this letter will occur. People will lose their pensions. The cost to the American taxpayer will go up if we do not have reconciliation dealing with pensions.

The third area which this language talks about is Medicaid. Let's talk about Medicaid. The reconciliation instructions suggest that we reduce the rate of growth in Medicaid over the next 5 years from 41 percent to 40 percent. It was originally going to be back to 39 percent, but we went from 41 percent to 40 percent, a \$10 billion reduction in the rate of growth—not in spending increases, in rate of growth, not a cut, on a \$1.3 trillion base. In other words, we are going to spend \$1.3 trillion on Medicaid over the next 5 years. What we asked in the budget was that we slow that rate of growth by 1 percent. We let it grow by 40 per-

cent over the next 5 years instead of 41 percent or \$10 billion.

And how was that going to be accomplished? It was going to be accomplished in concert with the Governors who are going to get much more flexibility in the way that they deliver the Medicaid services. Almost every Governor who came to us said: We will be able to deliver better services and cover more people if we get this flexibility than if we don't get the flexibility. As a result, we can certainly handle the 1-percent slowing of rate of growth of increase in exchange for getting the flexibility which will give us the capacity to cover more people. Dramatically more people will be covered if we use our reconciliation vehicle to change the law so that Governors don't have to go through all the hoops they have to go through today in order to address Medicaid, so that we don't have people defrauding the system as we have today but, rather, have a system that is honest and covers people who need to be covered. But you can't get there from here unless you use reconciliation because you can't pass a bill in this Senate with 60 votes. You can't get 60 votes because the party on the other side of the aisle simply refuses to do anything constructive in this area, and they have talked walked away from the table. So you need reconciliation protection. In fact, there will be no services cut.

To tie it into Katrina is so gross in its representation as to its inaccuracy as to be beyond blatant politics. The simple fact is, the reconciliation instructions assume no savings in Medicaid over the next year. All the savings come in years two, three, four, and five. Obviously, most all the spending for the Katrina situation is going to occur in the next year. To tie it into Katrina is absurd.

This letter is not surprising because it comes from people who oppose discipline in the budget to begin with, but its assertions are, even by the standards of politics in this body, bold in their inaccuracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

#### HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. BROWNBACK. Mr. President, I rise to pay tribute to William Rehnquist, 16th Chief Justice of the United States. That is the title, Chief Justice of the United States. While the ceremony honoring him goes forward I think it is appropriate that we in this body recognize his incredible service to the Nation. His biography, where he came from and what he did, has been spoken of a great deal. What I wanted to speak about is not only that, but also his personal impact on me, one that he wouldn't have known or known about.

As a young law student in the early 1980s at the University of Kansas, I can

remember studying constitutional law and other areas where his opinions came forth. Frequently, in those days he was in the minority opinion role.

Many of my law school professors would say: Can you believe what this guy wrote? I remember reading his opinions and thinking his opinion seemed very logical. It seems to me, he believed in holding with the great traditions of being a nation of the rule of law, not the rule of man. The Constitution is a textural document. Chief Justice Rehnquist had a big impact on me in his writings and what he believed we stood for as a nation. He has had a big impact on this Nation, and he will be sorely missed.

He was genteel in all of his dealings. Even when he presided in the Senate over the impeachment trial for President Clinton, he did so in a very stately, gentle fashion. Just his presence was one of a man at peace with himself, who knew what he was about, and knew his role and his duty. He fulfilled his duty to the best of his abilities as Chief Justice, Associate Justice on the Supreme Court, as presiding over an impeachment trial, and working with clerks.

I think one of most telling things for an individual is what the people say that worked for you, and particularly those who worked for you perhaps in a lower capacity. It seems uniform that the clerks for Chief Justice Rehnquist admired the man while they worked for him. It is a tribute to him how well they worked together and how he helped form them. There is a great symmetry about this in John Roberts being nominated now, as a former clerk of Chief Justice Rehnquist, and now nominated to fill the vacancy on the Supreme Court left by his former boss. John Roberts is an outstanding nomination to the Chief Justice position. I hope we can move forward with in an expeditious fashion, certainly thorough, but in an expeditious fashion.

That is not what we are here today to talk about. Today it is to talk about and to reflect upon an amazing American in William Rehnquist. He grew up in the suburbs of Milwaukee, WI. His father was the son of Swedish immigrant parents, worked as a paper salesman. His mother was a multilingual professional translator. Shortly after graduation from high school, Chief Justice Rehnquist enlisted in the Air Force and during World War II served as a weather observer in North Africa. On completion of his service in the Air Force, the Chief Justice began his undergraduate work at Stanford University. Yes, he did it on the GI bill.

In 1952, Rehnquist graduated first in his class from Stanford Law School, certainly a monumental accomplishment, an accomplishment of great discipline. Following law school, he clerked for former Supreme Court Justice Robert Jackson. In 1953, he began work at a law firm in Phoenix, and his brilliance was noted by the Nixon Deputy Attorney General at that time,

Richard Kleindienst. On October 22, 1971 President Richard Nixon, nominated him to serve as an Associate Justice on the Supreme Court. He was confirmed less than 2 months later, which would be record speed for this body by today's standard.

During his time on the Supreme Court, Chief Justice Rehnquist has defended the original text of the Constitution. To a number of people that may seem like a simple task. After all, it is the Constitution. It is the basic law of the land. What is there to defend? The law speaks for itself. It is a set of plain words on a clear document that has such a significant historical place in our hearts and minds. Yet he comes along on a Court at a point in time when a number of people are saying: It is a living document, it can move with the culture, and we can interpret the words more broadly. We can interpret it not by what it says, but by what we would like it to say.

Chief Justice Rehnquist fought against that and fought for the original text of the Constitution and said it is as it is. This is a textural document. If we want to change it, that is fine, but it is changed by two-thirds of the House and two-thirds of the Senate and three-fourths of the States, not by five people on the Court. Those are not his words, but they are the principles he stood for.

The role of a Justice on the Supreme Court is to look at the plain meaning and the original text of the Constitution, not at your own cultural bias of the moment and what you believe America may need and therefore may be willing to move to.

The problem with a living document is that you don't have the rule of law. You are more of a rule of man. So he defended this proposition of the original text of the Constitution, the intent of the Framers.

Certainly, he was a promoter of life. It was in the 1973 dissent in *Roe v. Wade* that then-Associate Justice Rehnquist wrote, "To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment."

These are the Associate Justice Rehnquist's words. In his early years of lonely dissents in cases like *Roe*, Rehnquist made his mark by standing for constitutional principle over the political preferences of an unelected judiciary. With the retirement of Chief Justice Warren Burger in 1986, President Reagan then elevated Associate Justice Rehnquist to the Court's top post, where he served with distinction until his death.

The last 19 years have shown that Chief Justice Rehnquist was a terrific choice to lead the Supreme Court. He authored countless landmark decisions and thought-provoking dissents. In carefully reasoned opinions, he insisted that the principle of federalism is an integral part of our nation's constitu-

tional structure. He recognized that our Government is one of enumerated rights and dual sovereignty, with certain functions and powers properly left to the States.

One example of Chief Justice Rehnquist's commitment to the laws is his opinion in *Dickerson v. United States*. Although a long-time critic of *Miranda v. Arizona*, Rehnquist nevertheless placed his past position aside and wrote the opinion in *Dickerson*, effectively affirming the holding of *Miranda*. He served well. He served nobly, and he served with courage. I might note that even during his recent sickness, he found the strength to do his duty and to serve in office. He found the strength to administer the oath of office to President Bush, to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration, "the most poignant moment was the manful William Rehnquist, unable to wear a tie and making his way down the long marble steps to swear in the president. The continuation of democracy is made possible by such gallantry."

While some of his colleagues on the Court disagreed with him at times, there will there can be no doubt that they admired his strong leadership, his likable personality, and his ability to build consensus. That is the noteworthy quality of a gentleman. He served with distinction. He served us well. He carried his course out, and he is now at rest.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from North Dakota is recognized.

#### RECONCILIATION INSTRUCTIONS

Mr. CONRAD. Mr. President, I rise today to talk about the proposal that a number of us have made—Leader REID in the Senate, myself, the ranking member of the Budget Committee, Leader PELOSI in the House, Congressman SPRATT, the ranking member of the Budget Committee—to put off the reconciliation proposals that flow from the budget resolution.

We have just been hit by perhaps the greatest natural calamity in our Nation's history. We don't know yet how it will rank, but there is certainly a possibility this will be one of the greatest calamities in our Nation's history. And that is the reason we sent the letter this morning to Majority Leader FRIST and Speaker HASTERT, as well as the chairmen of the Budget Committees in both the House and the Senate recommending that we suspend those reconciliation instructions that are part of the budget resolution.

We did that because we don't think what was written then fits the facts now. We have just had a massive disaster. It makes no sense to pursue the priorities that were part of that budget resolution.

This is not a time to be cutting services to the most needy among us. This

is not the time to cut food stamps, to cut medical care for the indigent, to cut student loans. That is what is in the reconciliation process. Are we really going to cut Medicaid \$10 billion when we have hundreds of thousands of people homeless and don't have medical care and don't have a home? Are we really going to cut Medicaid in that context? Are we really going to cut food stamps when there are tens of thousands of people displaced, hundreds of thousands of people have had to leave their homes, and we are going to cut services for the most needy and, at the same time, cut taxes for the most fortunate among us?

Frankly, I did not think the budget resolution made much sense when we passed it. The budget resolution's reconciliation instructions cut spending \$35 billion and cut taxes \$70 billion, so it increased the deficit, on balance, \$35 billion when we are facing massive budget shortfalls—among the biggest in our history.

In fact, the budget that was passed here will increase the debt of the country every year by \$600 billion. That is stunning. It is going to increase the debt \$600 billion. That is before Katrina. Now are we really going to continue down that path? Are we going to continue down a path that says on an emergency basis cut services to the least among us, cut taxes for the wealthiest among us, and run up the debt even more? What sense does this make?

It makes no sense to consider those legislative proposals in light of this new reality. It seems to me very clear none of us can know yet the cost to the Federal budget of the response to Hurricane Katrina. We should not be rushing through a further reduction in resources the Federal Government has available to respond to our Nation's challenges.

Katrina is a body blow of stunning proportion. We already passed \$10 billion of aid, which we obviously should have done. We are told that we are going to be asked to immediately consider another \$51 billion of aid, which clearly we should do. But that is just the beginning.

I have been told that the cost of this disaster to the Federal Government may well reach \$150 billion. So for us to go forward with a budget plan that was written before this catastrophe, and for some to come to the floor of the Senate and say, Steady as she goes, just keep on with that plan, does not make a whole lot of sense.

We have just seen a dramatic disaster, a catastrophic disaster. You don't stick with the same old plan when something of this consequence occurs. We have to respond, and we do not just respond by doing what we were getting ready to do when we faced a totally different set of facts. Frankly, I don't think it made much sense before this disaster. It makes absolutely no sense after this disaster.

Again, let me say to my colleagues, are we really going to cut Medicaid