

In memos written when he was in the Reagan administration, Roberts disparaged the notion that there is a constitutional right to privacy that prevents the government from criminalizing contraception, abortion and gay sex.

And then it talks about race:

Roberts has belittled affirmative action as "recruiting of inadequately prepared candidates" and has argued for standards that would make it easier for school districts to evade desegregation orders.

On women's rights, it is also troubling:

Roberts ridiculed the concept that women are subject to workplace discrimination, and he argued for narrowing the government's ability to enforce the ban on gender discrimination in education.

They close by saying:

His record bears close scrutiny and his answers should go a long way toward determining whether he should be confirmed for a lifetime appointment as the Nation's most powerful jurist, deciding issues barely imaginable today and influencing the lives of generations to come.

As I say, this editorial is quite mainstream. It raises legitimate concerns about Judge Roberts. It basically says to the Senate, it is your job to find out how he is going to rule on cases we cannot even envision at this time.

I think that the committee is off to a good start. I received a briefing while I was on a plane today about the Senators' comments on both sides of the aisle. It clearly seems to be a confirmation that both sides are taking extremely seriously.

I say to those friends and colleagues on the other side who are counseling Judge Roberts that he does not have to answer questions, that would be a big mistake. The American people in poll after poll are saying to us, we have a right to know. We want to have answers to very important questions that will shed light on if Judge Roberts is going to make sure this Congress and this Federal Government can protect them; that we can protect the environment; equal rights for women and for minorities; that we have the ability to make life better for the American people; and that we, in fact, will be able to respect the dignity of our people by making sure there is not a "so-called" right to privacy but a fundamental right to privacy that has been articulated by the Court and that we hope Judge Roberts will uphold.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

BUDGET RECONCILIATION

Mr. GREGG. Mr. President, I rise to speak a little bit about the schedule of the reconciliation bill which this Congress was supposed to actually take up this week. As we all know, reconciliation is one of the key procedures by which the Congress addresses spending, specifically spending in mandatory programs and tax policy. In the budget which we passed about 5 months ago, we included reconciliation instructions

which essentially say to committees within the Senate and within the House that they are to change the entitlement programs they have jurisdiction over in order to slow the rate of growth of a number of those programs or in order to generate revenues from those programs which might not otherwise be coming in in order to reduce the size of the deficit and in order to make the Government more affordable.

This reconciliation proposal which came forward requested approximately \$34 billion in savings on the entitlement side, \$70 billion in tax policy changes. It was to be executed on or preceded with this week with a reconciliation bill on the spending side of the ledger. In consultation with the leadership, who obviously makes the final decisions, and with the House, we have decided to move the date of reconciliation so the Budget Committee will report a reconciliation bill on October 26. This will essentially allow committees, especially the authorizing committees, which are now heavily engaged in the issue of trying to address the catastrophe brought on by Katrina, the opportunity to have time to order their reconciliation changes so they can bring forward effective bills which will accomplish the instructions as proposed.

Some have asked, why go forward with reconciliation at all in light of the Katrina situation? I think it is important to recognize what reconciliation is in relationship to a disaster, a catastrophe of the size of Katrina. Obviously, the impact on the Gulf States has been enormous and we have to do whatever we can to help the people of the Gulf States rebuild and reestablish their lives in some semblance of order and give them some opportunity for hope. And we are doing that as a Congress. The administration is trying to do that and obviously the States and local governments are trying to pursue that activity.

We will get past the Katrina problem. The people of the Gulf States are energetic, enthusiastic, and productive people, as are all Americans, and America has come to their aid as a nation, which we should. Obviously it is going to take time, but this is a one-time event—hopefully never will happen again, and has never happened before—of this magnitude, and we should be able as a nation to manage and correct the situation and give relief to the people of that region and do the reconstruction that is necessary. That is a one-time spending event.

What the reconciliation instructions address are the long-term implications especially of entitlement spending. We know that over the next 10, 20, 30, 40 years we are looking at massive increases in spending on mandatory programs, especially the health programs of the Federal Government, primarily because of the aging of the baby boom generation. As a nation, we need to set policies in place today which will allow us to be able to afford the costs which

this huge generation is going to incur in order to maintain its health and also its retirement.

Reconciliation is a very small step down that road of trying to improve the policy so we can better deliver services to seniors who get Medicaid and other people who get Medicaid—obviously children—and at the same time make it affordable. The reconciliation instructions cover 5 years. In fact, the Medicaid instruction, which has been the most contentious, anticipates no savings in the next year. So clearly it has no impact on the Katrina event, most of which money for that restoration will occur within the next year.

Over the next 5 years, what we proposed is slowing the rate of growth of Medicaid under the reconciliation instructions from 41 percent back to 40 percent. I had hoped we would go from 41 percent to 39 percent. I thought 39 percent was a pretty good rate of growth, but that was not acceptable so we are going to a 40-percent rate of growth over the next 5 years, on a \$1.1 trillion spending program. That is what Medicaid will be over the next 5 years. We are suggesting that we will save \$10 billion—\$34 billion over the whole reconciliation instruction—on a \$1.1 trillion spending program over 5 years, with none of it occurring next year.

How can we do that? We can actually do it by delivering more services to more people. If we give Governors greater flexibility with their Medicaid funds, Governors have told us with more flexibility they can cover more people and do it at lower cost. That is called good management. It does not take a lot of good management to shave 1 percent off the rate of growth, which will be around 40 percent. So it is a very doable event, and we need to proceed with it.

There are other committees that have received reconciliation instructions that actually want those instructions, that want to be able to proceed forward because they see opportunities to improve Government and to generate a better return for taxpayers. One, of course, is the Commerce Committee. Another is the HELP Committee which has reported out an incredibly strong higher education bill where they are basically going to expand rather significantly the dollars available to people who go to college through Pell programs and other programs, under the leadership of Chairman ENZI. That bill has been reported out, has saved about \$7 billion, but has also generated about \$6.5 billion which will go back into student loans. It has done it without impacting student loans but actually expanded student loans by taking action in the area of lenders accounts. Chairman ENZI deserves lot of credit for it and we should proceed with that.

Chairman ENZI also reported out a bill, along with the Finance Committee, to address the pension reform issue. We need to address pension reform. We are not going to be able to do

it unless we do it in reconciliation. We know we have major bankruptcies coming at us. Regrettably some of them are in the airline industry, maybe even this week. There are rumors about that. We know when people go into bankruptcy, their pension funds go into the PBGC. We know the PBGC has somewhere between a \$30 billion and \$50 billion projected unfunded liability or deficit. If we are going to be able to maintain those accounts so that people who have been planning all their life to receive pensions, if they are in a company that goes bankrupt, still receive some percentage of their pensions rather than get completely wiped out, we have to have a solvent PBGC. So Chairman ENZI and Chairman GRASSLEY have both reported out bills to try to accomplish that and they are using reconciliation to proceed in that direction, and that is very possible. So we need the reconciliation bill to put in place policies which do not address the immediate problem of today, which is obviously the Katrina issue, or the problem even of next year or the year after.

These policies under reconciliation will address 5 years, 10 years, 15 years down the road and address them in a positive way. They are small steps, but they are important steps, and that is why we need to go forward with reconciliation. That is why we have set this date and moved it a month but only a month.

KATRINA RELIEF EFFORT

On another issue, and that is the issue of Katrina and how we are funding Katrina and the relief effort, we have now passed two supplementals totaling about \$61 billion. We know we are going to get another supplemental probably within 3 or 4 weeks for another \$50 billion. We also know that moving through the Congress is a whole series of initiatives relative to trying to give relief to the people in the Gulf States, which is the goal of all of us. We recognize that things such as tax packages, such as WERDA, such as the COPS program, we have on this bill—in fact, I think there is an amendment for the COPS program of \$1 billion. There is an amendment dealing with Medicaid which will cost \$4 billion to \$6 billion. There are flood insurance issues. The simple fact is that the cost of this disaster, catastrophe, is going to be huge. The problem we have, as I see it right now—and we are willing to pay that price, by the way. I am perfectly willing to pay whatever is the appropriate price to make sure we give these people an opportunity to rebuild and restore their region in a logical manner. I have suggested that we set up a commission with a single leader along the lines of the Hoover activities in the post-1927 flood where there would be a focal point where all the Federal programs would come together and the money would be distributed in an orderly and planned manner working with the States and the local region. Then we can set up such an au-

thority and put a person on the ground who has a national reputation and knows what he or she is doing and can manage this in a way that is orderly and has a reasonable audit function and reasonable management function so we make sure we get value for the dollars so they are not wasted. We have seen some proposals that would not work and would have wasted money already.

What we are not seeing is that sort of cooperation in the Senate or Congress. We have ideas come from all different sides. We have ideas coming from every committee—we have creative people on every committee—and we have ideas coming from the administration, but there does not appear to be any focal point for management of these ideas so we are prioritizing what we need, how we need it, and where it should come from and where it should go.

We have ideas coming out of one committee that are for flood insurance, or amendments on the floor that already represent \$4 billion to \$10 billion of new spending, or we have ideas coming out of the tax committees or ideas coming out of the appropriating committees. Since everybody wants to respond and respond effectively, there ought to be a management process in the Congress—and in the White House, by the way—that says this is what we prioritize as needed. This is what we want the Congress to move on quickly. Let's take a hard look at what will work and what will not work.

I am sorry we have not seen that yet. As chairman of the Budget Committee, I have been extremely concerned about this because I think we are going to wake up 6 months from now or 3 months from now and realize that a haphazard approach has not been effective either in resolving the problems in the gulf coast or in managing the taxpayers' money effectively.

I am hopeful we will see a little more order in this process. I implore our leadership to give us such order.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for 1 hour with the time equally divided between the Senator from Oklahoma, Mr. INHOFE or his designee and the Senator from Nevada, Mr. REID or his designee.

Who yields time? The Senator from Oklahoma.

ORDER OF PROCEDURE

Mr. INHOFE. Mr. President, it is my understanding we are going to have 1-hour debate on the motion to proceed and Senator LEAHY and myself are controlling that time. It is acceptable to me, if Senator JEFFORDS would like to be heard at this time, that he be recognized.

The PRESIDING OFFICER. Who yields time to the Senator from Vermont?

Mr. LEAHY. The Senator from Vermont is seeking time? The Senator from Vermont yields such time to the Senator from Vermont as the Senator from Vermont might need.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

DISAPPROVAL OF EPA RULE PROMULGATION

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleague from Vermont, the Senators from Maine, and many other Senators in a bipartisan effort to oppose the administration's mishandling of the Clean Air Act. That is what our resolution of disapproval is about.

We are here because the Bush administration's mercury rule violates the Clean Air Act. This rule is plainly illegal, it is unwise, and it is definitely unhealthy for Americans living downwind of coal-fired powerplants, especially mothers and their soon-to-be-born children.

The administration, with a simple wave of its hands, has used the rules to delay compliance with the mercury control requirements for a decade or longer than the law allows. Our resolution of disapproval is simple enough for even the biggest energy company, and the administration even, to understand. We reject this abuse of the Clean Air Act, and we demand they follow the rules of the land.

The law says: Each and every powerplant unit that emits mercury and other toxic air pollutants must take action to reduce these emissions by using maximum available control technology, or MACT.

The administration could have gone through the appropriate statutory process to delist and exempt their powerplants from regulation, but that is not what they did. Instead, they made up a whole new deregulatory scheme to help out the big energy companies. But the act does not provide them with that authority. They do not have the luxury of ignoring the laws that regular Americans must follow and that Congress wrote to protect the public's health and the environment. This administration is not above the law.

The EPA is allowed to set the MACT standard after considering costs and any nonair quality health and environmental impact and energy requirements. That they could have done. But, instead, the administration chose to violate a settlement agreement. They shut down an advisory commission because they did not like getting scientifically credible answers on mercury controls and costs. The process used to create this rule was flawed and was intended to delay and obstruct any mercury control requirements whatsoever.