

President has declared a public health emergency, indicating there are additional pressures on those States and additional pressures on the people in those States. We are trying to provide some temporary help.

Now, you hear sometimes: Well, the administration is suggesting a waiver. Senators mentioned the problems with the waiver. I will very briefly list them. One is that the waiver does not cover a lot of people who are going to need care. A major category is childless adults. If you are a single man or single woman, you do not get any assistance here. That does not make any sense. It does make sense to give assistance to women and children, but it does not make sense not to give any assistance to a single man or a single woman. That is an effect of the waiver that the administration is talking about.

Why create all these additional misconceptions? Let's say, as the legislation does: OK, we are going to utilize this Medicaid safety net, and I don't care whether you are single, you are a parent, you are old, or what; if you do not have the income, you are covered. We are going to help you out for 5 months. What is wrong with that? Doesn't that make sense? To me, it makes a lot more sense.

It is important to add, too, this legislation is strongly supported by the Governors in the States affected. It is bipartisan, supported by Republican Governors, Democratic Governors. Governor Riley of Alabama wants the legislation. Governor Barbour of Mississippi wants this legislation. Governor Blanco of Louisiana wants this legislation. It is supported by Republicans and Democrats.

A lot of Senators around here say: Well, gee, the local people know what the needs are. The local people know best. We in Congress are too top-down. We issue these ultimatums, we pass this legislation, but it is the local people who know.

It is important to note, the local people want this. It is the local people who are asking us for this. The Senators from Louisiana—from both sides of the aisle—want this. Senator LOTT and Senator COCHRAN want this. It is the same with the Senators from Alabama, who are both Republicans. They want this legislation. It is the same with the Senators from Louisiana. One is a Republican and one is a Democrat. They want this. I mentioned the Governors want it. The House delegations want it. Again, I remind my colleagues, it is temporary. It is only for 5 months, this Medicaid help.

Now let's get into the question of uncompensated care to hospitals. This legislation—again, scrubbed, worked over—provides for \$800 million of uncompensated care to providers in the States affected, to be administered by HHS, and grants for uncompensated care for those hospitals; whereas, the administration says: Well, we will give uncompensated care in waivers. But we

are not saying how much. We are not saying how. It is only a promise. I am saying, it is deeds. It is not words. It is deeds.

I might also add the waiver process the administration talks about as an alternative has huge, big problems, to be honest about it. What are they? Well, the basic problem is this. The administration says: OK, we will make you States whole under Medicaid; that is, you have the charges, then you bill us, and we will pay you. There is a real question whether they have the authority under the law to do that. It is a huge issue. In fact, coming to work today, I heard a George Washington professor talk about this. She says under the law they cannot do that.

Do you know what I think is going to happen? Some are going to duck under this waiver "idea" saying: OK, it will make you whole, States. Then there will be a big debate whether legally the administration can do that. Then, well, it kind of fades away and—guess what—these States are not going to get it. These hospitals are not going to get that extra uncompensated care, either.

All I am saying is, this is a quick, certain way. It is Medicaid. We all know Medicaid. We know it works. The provider networks are set up. The process is set up. The people are there. So let's raise the income levels a little bit—just a little bit—temporarily, for 5 months. Let's get on with it, rather than this very uncertain administrative idea of waivers and what they are, what they can and cannot do.

We have already established under the law one thing they cannot do. They cannot give Medicaid assistance by picking and choosing in that picking and choosing, there is discrimination against who gets help and who does not.

Katrina survivors need to know, are they going to get any help or not? They do not need the additional worry of whether they are going to be discriminated against.

Finally, I would like to say, this question before us, to a large degree, tests us as a Nation, as a people, as a Senate, as a Congress. Who are we? What do we stand for? Are we going to stand here and bicker over minute details while people need help? Are we going to be kind of FEMA-like and be hesitant and not respond immediately? What signal does that send? What signal does that send to the people affected? What signal does that send to the rest of the country? What signal does that send to the world?

Here we are, the Congress is bickering over whether to provide health care benefits to the people who need them, people who are down and out because of a natural disaster.

We are supposed to be America, a big heart, model for the world. Sure, we have to make sure there is no waste. That is one of the reasons we should go through Medicaid. There are already antifraud provisions and protections set up under Medicaid today. That is

already in existence. It is pretty simple. It doesn't take rocket science to figure this one out. Let's help these people. Let's do it now. We will take up other disaster assistance matters in subsequent weeks and days and have an opportunity then to make adjustments that may or may not seem necessary. But at the very least, let's pass this legislation now.

We are going to pass it. Obviously, if you are going to do something, you might as well do it earlier rather than later and get on with it so we can get on with other things. We are going to pass this. I hope Senators who are opposed to this, for reasons I can't fully understand, will finally sit down and say: OK, sometimes discretion is the better part of valor. Let's pass it and get on with it.

The PRESIDING OFFICER. The Senator from Arizona.

#### TAX RECONCILIATION

Mr. KYL. Mr. President, let me speak briefly to a related subject dealing with relief for those adversely affected by hurricanes in the gulf region, the other side of the coin. We have a lot of programs we are going to have to fund for the relief of the people who suffered. A lot of us have felt we ought to be careful about how we spend that money and even make sure as much as possible we cut spending in other areas to pay for it. There are those who say the way to ensure we have enough money for these programs is to raise taxes. What I want to address is the fact that raising taxes, especially at this point, taxes that ironically would impact the very people who have suffered, would be absolutely the wrong thing for those people, for their communities, for the families of our country, for the economy, and for job creation.

Raising taxes is not something you do when you want to help people, especially since we know the bulk of the growth that is going to occur in that region is going to come from the private sector. You don't make the private sector more healthy by extracting more money from it.

Specifically, we are talking about a process in the Senate whereby we put real life into the budget we passed earlier this year through two bills we call the reconciliation bills, essentially reconciling income to our outgo. One of those bills deals with some of the tax policy we first effected in the year 2001 and then in the year 2003. Remember, the economy wasn't doing so well back then. When President Bush was elected in 2001, he said: We need to reduce taxes in some areas and thereby help the economy get back on its feet.

In 2003, we brought that tax relief forward to that date and the economy took off. Marginal rates were reduced for all taxpayers. There were two taxes especially that helped with investment and job creation. We reduced substantially the tax on dividends issued by

businesses, by corporations. We also reduced the taxes on capital gains. Capital gains are paid on virtually anything you sell and make a profit on.

As a result of reducing those tax rates, did we have less money come into the Treasury? No. The reduction of the tax rates ironically caused all kinds of economic activity to occur because people weren't going to pay as much taxes on it, with the result that the taxes came rolling into the Federal Treasury. That is the situation we see today: Record-breaking revenues coming in from the payment of taxes because we reduced the tax rate.

Were we to allow those tax rates to go back up again, we can fully expect the exact opposite effect: less economic activity to tax; therefore, less taxes collected. It doesn't make any difference if you raise the tax rate; if there is nothing to tax, then you are not going to bring more revenue into the Treasury. Both because it would hurt the people you are trying to help in the gulf and around the country, and because it would bring in less revenue to the Treasury, a tax increase at this time is exactly the wrong response.

There is an interesting phenomenon—I know the Presiding Officer is aware of it because he takes a significant role in studying the economy and its effects—economists who look at this say we will be able to rebuild from the effects of the two hurricanes. Our economy is big and strong, and there won't be any lingering damage. There will be a blip in this third quarter. But by the fourth quarter, our economy will be strong again.

What they are worried about is the signals coming out of Washington that maybe in this reconciliation bill, we won't continue to support the lower capital gains and dividends tax rates, that we will in effect allow those tax rates to increase by not doing anything. Those tax rates are scheduled to increase in the year 2008, if we don't stop it. We are going to have a tax increase then, if we don't say we are going to continue the 15-percent rate. We have the chance to do that this year. I will explain why it is important to do it this year.

What we are asking for is the ability to continue the tax rate as it is on capital gains and dividends 2 more years, from 2008 to 2010. That is important for a reason I will discuss in a moment. Some people say: At a time that we have to pay for hurricane damage and reconstruction and rebuilding, we ought to raise taxes, not keep the same rate we have.

The point is, the tax rate we have today extends on through the year 2008. We don't gain anything by raising that tax rate to so-called pay for the hurricane rebuilding. That doesn't happen until the beginning of the year 2009. We are not able to gain revenue by allowing that tax rate to go back up again, since it is not going to go back up again, if at all, until the year 2009. There is nothing to be gained by not

acting and everything to be gained by sending a signal to the markets that we are serious about keeping these rates at the level they are.

Why is this important? It is important because when people decide whether to invest, they foresee what the length of their investment will be, what they have to pay for it now, what they are going to make on it, and what kind of taxes they will have to pay. That is how they decide whether to invest. They capitalize their investment based upon the expectation of profit which is a condition of both what they will sell for and what the tax rate will be. We know what the tax rate will be through the year 2008. The question they ask is, what about the year 2009 and 2010?

Most of the investments made today are investments that are going to play out over the next 3, 4, or 5 years. It doesn't do a lot of good to look at the tax rates tomorrow or the next day. We do want to look at the tax rates in the years 2008, 2009, and 2010. That is when the profits will be realized, the taxes will be paid. It is hugely important what the tax rate is going to be in the year 2009 and 2010. That is why we have to act this year to extend the current law to make sure those rates stay right where they are, that we don't have a rate increase.

There are some interesting statistics which I know the Chair is aware of, but I want to remind my colleagues with respect to the state of the economy today and the impact of the hurricane damage on it. The Congressional Budget Office estimates the two hurricanes will have only minimal effect on economic growth. They project that GDP growth in the second half of 2005 could be one-half percent slower than was previously predicted, but that by the fourth quarter and beyond, economic growth will return to its normal levels. We do know the economy was firing on all cylinders before the hurricane. In August, the month of the hurricane, CBO forecast the economy would "continue to expand at a healthy pace during the second half of 2005", and CBO projected GDP growth would grow by 3.7 percent in 2005, by 3.4 percent in 2006. As I said, the economy is doing great, firing on all cylinders.

In August, the unemployment rate dropped to 4.9 percent, one of the lowest percentages ever. In May 2003, when the tax cuts were enacted, the unemployment rate was 6.1 percent. So it went from 6.1 down to 4.9. Most economists believe the tax cuts had a lot to do with that.

I might contrast to our European friends. Through the first half of 2005, the growth rate in the Euro area was 1.1 percent. The unemployment rate there stands at 8.6 percent. So we are doing very well in this country. Our economy is moving right along. It is not going to be adversely affected by the hurricane rebuilding. What we don't want to do is anything to slow that economic growth down, stop this

engine of production. Tax increases would do exactly that.

Since the year 2003, when the tax cuts were enacted into law, we have seen a sharp increase in revenues coming into the Treasury. While private economists expected that, it didn't show up in official Government estimates. In August, the CBO acknowledged that the revenues for 2005 will be \$85 billion more than they were projected in March of this year. That is how wrong the Government was. It could even be more than that. So from March to now, we know we are going to have at least \$85 billion more in Federal revenues than were projected.

Here is the great statistic: CBO now projects the Treasury will collect \$262 billion more in revenues in 2005 than in 2004, an unprecedented increase—\$262 billion more. This is at lower tax rates. How can that be? When you have lower tax rates, it encourages people to invest more because they are not going to have to pay as much taxes. That investment produces economic growth which, in turn, is taxed, and that is why we are getting all the increased revenues to the Treasury.

Interestingly, corporate income tax payments are up 42 percent this year. They were able to expand their operations because they have been able to attract additional investment. They are being attracted in part by the lower rates on dividends and capital gains.

What would happen if we allowed those rates to increase? The nonwithheld income tax receipts are up 28 percent. What are these? These are the tax payments that don't come from employer withholding. In other words, they come from things such as capital gains and dividend income. Clearly, the 2003 reductions in the cap gains and dividends are having an impact there. We have to use the reconciliation bill this year to maintain the lower rates for capital gains and dividends and keep our economy growing.

In summary, there is a strong economy that we don't want to hurt by raising taxes. Beyond being concerned about the tax dollars coming into the Treasury, we know the primary reason to keep the rates on dividends and capital gains relatively low is to give individuals and businesses the opportunity to invest, give businesses the capital they need to expand and create jobs. It expands the economic pie. It improves the standard of living for everyone. All Americans will benefit from keeping the 2003 tax rate on dividends and capital gains in place through the year 2010. I urge my colleagues not to respond to the siren song of raising money to rebuild from the hurricanes by raising taxes. It won't work. It will slow the economy down and that will hurt not only general revenues to the Treasury, but American families and individuals as well.

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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

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CHIEF JUSTICE WILLIAM H.  
REHNQUIST

Mr. ALLEN. On September 3, 2005, America lost one of its greatest public servants when, following a year-long battle with cancer, William Hubbs Rehnquist passed away at the age of 80. At the time of his death, he had been a member of the U.S. Supreme Court for 33 distinguished years, having served as Chief Justice since 1986 and previously as an associate justice, appointed in 1972.

Much of William Rehnquist's professional career was dedicated to public service. He served his country honorably in the U.S. Army Air Corps during World War II from 1943–1946. After his military service, he earned an undergraduate, a masters' and a law degree from Stanford University. Even further demonstrating his intellectual acumen, Rehnquist also graduated with a master's degree from Harvard University and was first in his class at Stanford University Law School. After law school, he became a Supreme Court clerk for Associate Justice Robert Jackson before leaving for private practice in Arizona. In 1969, Justice Rehnquist joined the Nixon administration as an Assistant Attorney General where he served until 1971. That year, President Nixon nominated William H. Rehnquist to be on the Supreme Court; the following year, he was confirmed to be an associate justice by the U.S. Senate.

It was on the Supreme Court that William Rehnquist built his reputation as one of the great legal minds of our time. His tenure on the high court of the land, both as an associate justice and as the Chief Justice, was an extraordinary achievement. I was particularly impressed with his leadership as the head of the entire Federal judiciary, as well as his affable personal demeanor on the bench and off, both of which were important traits in his role as Chief.

I respect immensely the way in which Chief Justice Rehnquist served on the Court with honor and restraint. As a justice, he fairly and properly interpreted the words of the Constitution without usurping the rights of the American people and those of the States to make laws as they deem appropriate rather than allowing unelected judges who are appointed for life to substitute their personal political views for the popular will of the people.

Chief Justice Rehnquist clearly understood that judges ought to apply the law and Constitution, not invent the law or amend the Constitution by judi-

cial decree. And I believe that he perfectly embodied what I consider to be the proper role of a justice and that America should be grateful for his long and distinguished public service on the bench.

Our Nation was so fortunate to have a man of William Rehnquist's intelligence and legal experience in public service for so many years. As a Supreme Court Justice, he was a decent, dedicated, steady, and principled jurist whose legal brilliance and knowledge will be difficult to replace. Chief Justice Rehnquist deserves America's gratitude for his over three decades of dedicated service on the Supreme Court and a life devoted to the service of this great Nation and its citizens.

My condolences go out to his family, in particular his three children, James, Janet, and Nancy, during this difficult time.

May he rest in peace.

Mrs. DOLE. Mr. President, I am deeply saddened to learn of the passing of Chief Justice William Rehnquist. He will most certainly be remembered as one of this Nation's greatest Chief Justices.

During his 33 years of distinguished service on the High Court, Chief Justice Rehnquist served with tremendous wisdom, skill, and intellect. His legacy will be defined by his calm and steady leadership, his staunch defense of the constitution, and his support of an independent judiciary.

Born into a modest home in the Midwest, Rehnquist enlisted in the Army at age 19 during World War II. He went on to have a very impressive academic career, earning bachelor's and master's degrees in political science from Stanford University. In 1950, Rehnquist received a master's degree in government from Harvard University. He later returned to Stanford Law School, where he graduated first in his class and served as the editor of the law review.

After law school, Rehnquist served as a law clerk to Associate Supreme Court Justice Robert Jackson. He then settled in Phoenix, AZ, with his wife Nancy, where he spent 20 years in successful private practice. In 1968, Rehnquist returned to Washington, DC, to serve as President Nixon's Assistant Attorney General in the Office of Legal Counsel. In 1972, William Rehnquist became the 100th Justice of the U.S. Supreme Court.

I expect we will hear much discussion in the coming years about the legacy of Chief Justice Rehnquist. But I am confident that a significant part of his legacy, his strong leadership of the Court, will be unquestionable. President Bush said at Rehnquist's memorial service, "He built consensus through openness and collegiality." Likewise, praise from so many of his colleagues and friends serve as a true testament to William Rehnquist's ability to treat people graciously and fairly, both from the bench and in his personal life.

The praise for his professional life is certainly plentiful, but we know that

most important to William Rehnquist was his family. He was greatly loved as a husband, father, grandfather, and uncle. His daughters Nancy and Janet joked that dating your father was completely underrated, after they had the pleasure of accompanying their father around Washington and on foreign trips after the death of their mother. He was a family man, first and foremost.

Chief Justice Rehnquist deserves our praise and our tremendous gratitude for his dedicated service to this country. Our Nation mourns the passing of this great man. The significant contributions he made, personally and professionally, will certainly be remembered always.

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MEDICARE DO NOT CALL ACT OF 2005

Mr. JOHNSON. Mr. President, today I have joined Senator CORZINE to introduce the Medicare Do Not Call Act. I am pleased to cosponsor this important legislation which will protect Medicare beneficiaries from being subjected to telemarketing campaigns related to the new Medicare Part D prescription drug program.

The Part D program will begin in January 2006, and as many of my colleagues are already aware, this program will turn the administration of the benefit over to health insurance companies. Between now and January 1, 2006, Medicare beneficiaries will receive a great deal of information from the Federal Government, insurance companies, and local organizations regarding how to sign up for the program. Many beneficiaries have already received information about the low-income coverage options.

Just last week the Centers for Medicare and Medicaid Services announced which health plans have been approved to offer the benefit. In South Dakota, there will be 18 companies offering the stand-alone prescription drug plan or PDP. Three companies will offer the Medicare Advantage plan, which is an HMO or Health Maintenance Organization type plan.

Starting in October, all of these companies will be allowed to start marketing their plans. While I do think it is important for seniors to have access to information about the various options, I do not think it is OK for these companies to be promoting their products through aggressive telemarketing campaigns. There are plenty of other, less invasive ways for these companies to get information about their Part D product to Medicare beneficiaries and I encourage those efforts, whether they be mailings, holding information sessions or releasing newspaper and television ads.

The Medicare Do Not Call Act would prohibit health plans from telemarketing their new Medicare prescription drug plans to beneficiaries. The bill permits representatives of insurance companies offering the Medicare prescription drug benefit to speak