



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 144

WASHINGTON, THURSDAY, JUNE 11, 1998

No. 75

## Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our purpose is to glorify You by serving our Nation. We want to express an energetic earnestness about our work today. Help us to know what You want and then want what we know; to say what we mean, and mean what we say. Give us resoluteness and intentionality. Free us to listen to You so intently that we can speak with courage. Keep us in the battle for truth rather than ego-skirmishes over secondary issues. Make us party to Your plans so we can give leadership to our parties and then help our parties work together to accomplish Your purposes. Make us one in the expression of our patriotism. In the Name of our Lord and Savior. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. SMITH of Oregon. Thank you, Mr. President.

### SCHEDULE

Mr. SMITH of Oregon. Mr. President, this morning, the Senate will be in a period for morning business until 11:15 a.m. Following morning business, the Senate will resume consideration of the tobacco bill, and it is expected that a Republican amendment will be offered regarding attorneys' fees. It is hoped that a short time agreement can be reached on that amendment so that remaining amendments can be offered and debated throughout today's session. At 12 noon, the Senate will proceed to a vote on the motion to invoke cloture on the modified tobacco com-

mittee substitute. Assuming cloture fails, the Senate will continue debate on the tobacco bill. The Senate may also consider any other legislative or executive items that may be cleared for action. Therefore, rollcall votes are possible throughout today's session of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I know my colleague wants to address the Senate and I will only take a minute on the business side. It is my understanding with respect to the tobacco bill, in a discussion with the majority leader last night, that there would be a Democratic amendment, I believe, at 11:15, with the understanding that the attorneys' fees amendment will follow that. I can say to a certainty that on the Democratic amendment, we will gladly enter into a time agreement. It will not be a long time agreement. So we can anticipate moving to the attorneys' fees amendment, hopefully, in the early afternoon.

Mr. SMITH of Oregon. Mr. President, the last amendment last night voted on was a Democratic amendment, and going back and forth, I believe the next one will be a Republican amendment. However, the chairman is not here. We will check with him, and if an accommodation is necessary, we will pursue that.

Mr. KERRY. Mr. President, let me just say to my friend, that is accurate in the sense there was a Democratic amendment. But the discussion we had with the majority leader and the manager of the bill is the Democratic amendments that have flowed to date were essentially responsive amendments on the same subject to the Republican amendment. Effectively, there hasn't been a proactive, free-standing Democratic amendment. I

think that is why the majority leader was happy to say he will allow the Democrats to have sort of a substantive amendment of their own choosing, and then we can proceed forward. But we can work this out. I just wanted to make sure at least that was on the record at this time.

Mr. SMITH of Oregon. Mr. President, I don't suspect that will be a problem. We are going to check with the chairman and try and accommodate.

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 11:15 a.m, with Senators permitted to speak for up to 5 minutes, with the following exceptions: the Senator from West Virginia, Mr. ROCKEFELLER, for 10 minutes; the Senator from New Jersey, Mr. TORRICELLI, for 15 minutes; the Senator from Montana, Mr. BAUCUS, for 30 minutes; the Senator from Maine, Ms. COLLINS, for 15 minutes; the Senator from Massachusetts, Mr. KERRY, for 15 minutes; and the distinguished Senator from Oregon, Mr. SMITH, for 5 minutes.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

### STATE OF RURAL OREGON

Mr. SMITH of Oregon. Mr. President, this coming weekend the President of the United States will travel to my home State of Oregon to deliver the commencement speech at Portland State University. As Oregon's junior Senator, I welcome President Clinton. I look forward to seeing his remarks and want him to know he is welcome in my State.

While in Portland, he will find a vital, vibrant community, like much of the Nation, which has enjoyed very

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper containing 100% post consumer waste

S6131

good economic times. Because of this, the President might leave Portland thinking his administration's policies, even those regarding natural resources and the environment, have been good for Oregon. And if he does that, if he has that impression, he will be sadly mistaken.

During the last recess, I traveled through the rest of Oregon. I returned from Washington last weekend having spent 5 days in eastern Oregon. I went to the communities of Condon, Boardman, Hermiston, Pendleton, LaGrande, Baker City, Ontario, Nyssa, Burns, John Day, Enterprise, Milton-Freewater, and Ione.

This region is the home to honest, hard-working people. It is a region that is also home to some of the most breathtaking scenery on the Earth. It is a region of forests and rivers, mountains and valleys. It is a region where people earn their living from the land. But it is a region in dire economic straits. It is a region which is fighting for its survival.

Many States have what I term country-city divides, conflicts between rural and urban areas. I happen to be the first Senator elected in Oregon who has lived in rural Oregon in nearly 70 years. I take the issues with respect to all of my State very seriously. I take the issues that affect rural Oregon very personally.

I would like to report to my colleagues on the State of rural Oregon, the rest of Oregon, today, and to invite the President not just to go to Portland but to come with me to John Day, to come with me to Nyssa, to come with me to Burns, OR, and to see for himself an area of my State that has been terribly damaged by many of his administration's policies.

These are Oregonians who have made their living off the land for generations. They are now being forced out of business by policies of this administration. These policies are often driven by emotionally generated, questionable science to institute severe restrictions on agriculture, forestry, grazing, and mining on both public and private lands.

Mr. President, there are people in the administration now who talk with straight faces, without blinking, about tearing out the Columbia River dams. These are assets built by the Federal Government in the Second World War. They were built to serve a multiple of purposes. They were built to provide public safety from spring flooding; they were built to provide irrigation for agriculture; they were provided to move crops from country to city, the city of Portland, the Port of Portland, where 40 percent of the wheat in the West goes right through and down that river.

They were built also to produce electricity. Heaven forbid, people need electricity. They were built specifically to provide the production of metals for weaponry in the Second World War. But now we are being told that all of these values must be subordinate to

the single value of supposedly protecting the environment. They want to blow up these dams.

I am afraid I probably motivated some of my environmental opponents when I told them that when they blow the dams I will be on top of them, because I feel very strongly that the multiple of public values that are to be served by these are still worthy values. And there are many things we can do to make them more environmentally friendly, and we are doing that as we speak.

Well, that is an aside. But the people that I know in rural Oregon are good stewards of their land. After all, they need their land for their livelihoods, and they desperately would like to pass it on to their next generation, to their children. Moreover, these people make their living by producing food and wood fiber that all Americans need and use in our everyday lives.

I sometimes begin to think that we are so removed from rural communities in our modern society that we think we do not need farmers because there is a Safeway down the street, we do not need foresters because there is a lumber yard down the street, and we forget this connection.

As we forget this connection, we begin to enact laws that shut down all of our basic American industries of mining, grazing, farming, forestry, fishing, drilling—all of these things that we have done that have produced this American standard of living.

I fear as we shut these things down, we will then lament the day when our economy takes a very serious downturn. And it is difficult to reverse, because even in this room, Mr. President, everything around us is the product of the Earth in one way or the other. It came out of the Earth, and we bring these materials into commerce to produce products. Well, we all use them.

The PRESIDING OFFICER. The time requested by the distinguished Senator has expired.

Mr. SMITH of Oregon. I ask unanimous consent to have an additional 5 minutes, Mr. President.

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

Mr. SMITH of Oregon. For all the talk of a postindustrial service economy, Mr. President, people's most basic needs are still food and shelter.

Let me offer some facts and figures to help put things in perspective. Eleven of Oregon's thirty-six counties had double-digit unemployment in March, including Grant County with a rate of nearly 20 percent, Lake County at 15 percent, Wallowa County at 14.4 percent. It is about to get much worse.

For example, Mr. President, people do not like the way a clearcut looks, but nature has a way of clearcutting, too. It is called a forest fire. We have them very commonly in my part of the world, and yet even the salvage of burnt timber is not being allowed to be harvested in my State now. That makes no sense.

And 122 mills have shut down in Oregon since 1990. Timber receipts to Grant County for roads and schools declined from a high of \$12.4 million in 1992—\$12.4 million—to \$1.9 million in 1997. What are we saying about schools? What are we saying about roads?

The amount of timber harvested from our public lands has been reduced by approximately 80 percent. Under the President's Northwest Forest Plan, only 3 million of the 24 million acres—or 12 percent of the available acreage—is open for sustainable timber production. All this despite the fact that tree growth rates exceed harvest rates by 85 to 90 percent.

The Clinton administration would have us believe that they need to take over the management of Oregon's natural resources because we are incapable of doing so. Nothing could be further from the truth. In fact, Oregon has some of the toughest land use laws in the Nation. Despite the utilization of forest lands for agriculture, urbanization, and infrastructure, 91 percent of the forest land base that existed in Oregon in 1630—in the year 1630—91 percent of that land still exists as forests and for growing trees.

Mr. President, the final visit of my week in eastern Oregon was to the Ione High School commencement, where I had the privilege of delivering the graduation address. Ione is a small community, and its class of 1998 is also small. There were nine graduates. Yet nearly 500 people packed the high school gymnasium on a Friday evening to lend their support as a community to these outstanding young people.

As I looked at the graduates, I could not help but wonder what future there was for those who wished to live and work and raise a family in eastern Oregon. Will there be jobs for them? Will there be good schools for their children? Will this administration sentence them to a future with no option but to move to a city, to an urban area, in order just to make a living?

I returned from that trip, Mr. President, with a commitment to redouble my efforts on behalf of the good people of rural Oregon and to do everything within my power to ensure that their communities and their way of life will survive.

Finally, the next indignity to be visited upon rural Oregon involves the implementation of the Glenn amendment which now may invoke unilateral sanctions that unjustly impact our farmers. I think the distinguished Senator who has just left the Chair has a bill, I think Senator MURRAY has a bill, and I have a bill to address this very issue. Now, I know Senator GLENN and I know he is a good and decent man, and I know his bill was designed to deter nuclear proliferation. I am all for it. It didn't work.

Now we are about to witness the incredible spectacle of wrestling ourselves to the ground. The government is about to impose sanctions that will ultimately not hurt Pakistan because

the truth of the matter is our competitors love this. The people that will be hurt are the people of rural Oregon, Washington, Idaho and others, who will lose 40 percent of their markets to U.S. sanctions on U.S. farmers that have had no ability to deter nuclear non-proliferation.

I hope my colleagues will look at a bill which I am proud to cosponsor. It is a bill by Senator LUGAR that has a "stop, look, and listen" provision to this whole episode of unilateral sanctions, which in effect makes war on our own people. I think we need to stop and look at this very, very seriously.

Mr. President, I indicated how devastated wheat farmers will be in the rural parts of Oregon, Idaho, and Washington by the sanctions now about to be imposed by the Clinton administration by the Arms Export Control Act. Food aid under this act is supposed to be exempted. It is important that credits and credit guarantees for export of wheat also be exempted.

For that reason, I am introducing legislation this morning to exempt credit guarantees from any sanctions to be imposed.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Massachusetts is recognized for 15 minutes.

Mr. KERRY. Mr. President, I thank the Chair.

(The remarks of Mr. KERRY, Mr. CLELAND and Mr. ABRAHAM pertaining to the introduction of S. 2157 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### PATIENTS' BILL OF RIGHTS

Mr. TORRICELLI. Mr. President, last month the Senator from Massachusetts, Mr. KENNEDY, came to the floor to urge the Republican leadership to allow the body to consider reform of managed health care in our country. Today, I also want to join his plea that this institution be allowed to consider the consequences for American families of the managed health care system in our country.

The simple truth is health care in America is in a state of crisis—not a crisis of competence or technology. Most assuredly, it is a crisis of confidence. Confidence in health care in many respects is as important as the quality of the providers or the level of our technology. I have rarely in my life seen an issue where so many Americans are of a similar mind with such a depth of concern regarding the availability and quality of health care under the HMO system.

I realized myself the depth of these feelings when, only a few months ago I joined with my colleague, Congressman PALLONE from New Jersey, in a field hearing in our State. During the hearing, families told me about their own experiences in attempting to care for their children, gaining access to the best health care providers, and the enormous frustration and feeling that the costs of operations were being placed before the health of their children.

Perhaps the best example came from a single family in New Jersey, the Bolingers. Their daughter, Kristin, is 15 years old, and lives in Spotswood, NJ. She has experienced the frustration of managed care that has been visited upon many American families. As an infant, Kristin developed unexplained intractable seizures which left her in need of very specialized care and expensive diagnostic tests. Five years before, Kristin's parents had enrolled themselves in an HMO. But because of the rules of the HMO, Kristin could no longer see the pediatricians and the specialists who had been treating her for her entire life. Those who had the experience with Kristin, had seen her symptoms and knew her case, were now separated from her treatment, and in their place the HMO on its list of available doctors made a pediatrician available who was not qualified, who had no experience with her condition, and did not know her or how to treat her.

Her family then was left in an extraordinary position. In caring for their 15-year-old daughter, do they absorb all of the financial costs which they are unable to bear when treating their child or do they go to doctors who, on their face, were not qualified to deal with the case?

The family was left in a desperate financial position. The HMO refused to pay many of her medical bills deeming them "not medically necessary." The case only gets worse.

In 1994, scoliosis, caused by Kristin's condition, required the use of a back brace. The HMO gave her a back brace which was inferior and not usable.

Last year, Kristin had to undergo corrective spinal surgery. Her physician prescribed home nursing care and physical therapy. For a long time the HMO refused to pay for the physical therapy or the home care. They would pay for nothing. After they started to pay, the physical therapy was only half complete when payments stopped.

This, of course, leaves Kristin Bolinger's family with a question that they will ask themselves all their lives. The bills were not being paid, the family had to make these sacrifices in spite of the fact they were paying an HMO all of this time on time in full. The finances aside, the Bolinger family for the rest of their lives is left with the question: How much did their child suffer, and how much of her condition might have been reversed if she had gotten the right care at the right time?

Obviously, Mr. President, Kristin Bolinger and her family are not alone.

She is one of 4 million people in my State of New Jersey and 50 million in our country who have absolutely no protection from the judgments of their health maintenance organizations. They live at the whim of whatever decisions may come from the officials who manage these health care organizations. That is true, even though I am very proud that in New Jersey we probably have the best patient protection system for those in managed care of any State in the Nation. But it doesn't work. State protections don't work because only 25 percent of those in health maintenance organizations in New Jersey can be covered by State protections. The other 75 percent, who like Kristin Bolinger are in ERISA-based plans, are left to their own devices to fight their insurance companies for their rights because State protections cannot shield them.

It is no wonder that more than half of all Americans who are enrolled in health maintenance organizations are significantly dissatisfied with the quality of their care.

Fifty-one percent of Americans believe that health maintenance organizations are eroding the quality of health care for their families. Fifty-five percent fear that if they become ill while in a managed health care plan, those who administer their plan would have their highest priority in saving money rather than caring for their patients. And if that is not bad enough, the worst indication may be that this lack of confidence of those who are enrolled in the plan is mirrored by health care professionals themselves. Forty percent of all physicians who work in these very plans every day watching these judgments believe that the quality of health care and of the judgments made by health care professionals is eroding and prevent them from making the best medical judgments for patients.

I cannot tell you that the movement in America to managed health care plans has not had benefits. The truth is the spiraling upward costs of health care in America are being contained. I do not believe we ever could have developed the current Federal budget surplus without managed care. It has been of enormous benefit to the American economy as corporations have contained costs, but there is a loss of balance. If we are achieving the controlling of these costs, but the price is that families and physicians do not have confidence they can get the care they are purchasing, we are paying a very high price for this efficiency. What is required is to restore the balance between the efficiencies of delivering care and ending the upward spiral of rising health care costs, but assuring quality and access and balance of judgments.

The truth is this loss of balance is not necessary. Patients should have access to health care professionals who are qualified to treat their conditions and not forced to accept people without