of my best friends and colleagues in this Chamber, the Senator from Oregon and the Senator from Arizona. I don't believe that we are that far apart in terms of finding the set of words and phrases that will carry out our joint intention, and I hope that between now and Tuesday we can achieve that goal and be able to have a consideration. I recognize that once this bill is up, there will be policy differences among the different parties. The National Governors' Association feels very strongly about this legislation as it impacts the ability of the States to meet their responsibilities, and those views deserve to get a proper airing.

I also recognize that the House has already passed a companion bill to this but which is somewhat different from the bill that is before the Senate. So there will be a conference committee. There will be further reforms on this matter.

My concerns are fairness in the marketplace and the ability of the States to be able to carry out their responsibilities, especially the responsibility which I think the American people feel is the principal national challenge today, which is to properly educate the next generation of Americans so that they will be able to compete in a world of electronic commerce.

Mr. President, I appreciate the opportunity to have made those clarifying remarks and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

THREE ITEMS OF CONCERN ON THE SENATE'S AGENDA

Mr. DORGAN. Mr. President, I want to make some comments on three items that are left on the Senate's agenda that I am very concerned about. The Senate is going to continue, for apparently 2 additional weeks, and try to adjourn for the year and finish the 105th Congress on October 9th or October 10th. In the 2 short weeks that remain, I am told that we will consider H.R. 10, the financial modernization bill, fast-track trade authority for new trade treaties, and a substantial tax cut.

I want to describe how easy it is, with a small amount of time left, to make big mistakes. I am mindful there will be much disagreement about these three items. And I am also mindful back in my hometown one of the older fellas who was the wise sage said, ''It's hard to tell the difference between the open minded and the empty headed. They dress alike.''

Let me describe these three issues and tell you what I think is empty headed about the attempt to try to pass these three pieces of legislation in the final 2 weeks of a legislative session.

FINANCIAL MODERNIZATION

First, H.R. 10, the Financial Services Act of 1998. H.R. 10 is a huge piece of legislation that deals with the financial institutions of this country and the methods by which they are involved in various kinds of activities.

We have had some experience in this country with the mixing of different kinds of enterprises—banks whose deposits are insured to $100,000, by the American taxpayer I might say; banks, those who are speculating in real estate, those who are involved in securities activities, those who are selling insurance; those kinds of financial activities.

We have had some experience in this country putting a number of those together in one institution and then seeing, through speculation, one part of the institution weakening and eroding the other part of the institution that caused massive bank failures in our country. The result was in the 1930s and this country said let's not forget what happened here. Let's not allow this to happen again, and let's create certain circumstances that would prevent us from merging banking enterprises whose very existence depends on the perception of safety and soundness—not unsafety and soundness, but on whether people perceive the institution to be safe and sound. Their very existence depends on that.

Let's not threaten again the banking institutions by fusing together financial conglomerates that merge banks with the more speculative enterprises of securities and insurance, or even commerce.

The American public has in this century paid a heavy price for the mistakes in those areas and put together walls in the form of legislation to prevent it from happening again. H.R. 10 is an attempt to bring the walls down. It says, ''Let's create a kind of financial fruit salad here. Let's decide we can merge all of these again. We can put all of these together and we can build firewalls, and you'll never feel the heat in between and it will never threaten bank institutions and the American taxpayer will not be put at risk.''

I guarantee you this, that if this Congress passes in the final hours, H.R.10, financial modernization legislation, it will result almost immediately in exacerbating the orgy of mergers that now exists in this country with big banks, and an orgy of mergers that will not only include banks, but will continue to include, at a greater pace, banks with the other kinds of financial enterprises I just described.

And 20 years or 30 years from now they will look back at this Congress and this period and say, ''How on Earth could they have thought that that made sense? How could they have possibly thought that was in the public interest? How could they have forgotten the lessons that they learned in the 1920s and 1930s that resulted in the legislation that had protected us?''

I know that there are some big interests around this town who want this bill to pass. There is a great deal of lobbying on its behalf. But I feel so strongly that to do this in the final 2 weeks of a legislative session would have such enormous consequences and pose such substantial risks for our country that I am going to resist with all of my effort the motion to proceed and in every other way to see if we cannot slow this train down on behalf of the American citizens.

I know it sounds attractive. I know some say, ''This is creating a new financial blueprint for our institutions for the future, allowing them to compete at home and abroad. It's now a global economy.'' What it is is forgetting the lessons of the past. It will be a replay, in some ways, of the Garn-St Germain bill of the early 1980s in which they unhitched the S&Ls and said, It is OK. You go broker deposits. You load up with risky junk bonds. You can become Roman candles. Take a small S&L and turn it into a giant S&L with broker deposits, and you can do a whole range of other things, and it is fine—and the American taxpayer got stuck with a nearly $500 billion bailout for that fiasco.

If this bill passes, there will be massive, massive mergers once again. And they have already been going on at an unprecedented and unhealthy pace in the banking industry and other related financial industries. So that is one big mistake I hope this Congress will avoid in the remaining days of this session. And to the extent I have the energy to be able to help them avoid it, I intend to try to do that.

FAST TRACK

Second is fast track. I know that also has a lot of support, fast-track trade authority. Just the very words ''fast track'' connote lack of preparation. Fast track, fast food—you just go down the line on what ''fast'' precedes, and it describes well ''fast track.''

Fast track means you create a trade agreement negotiated in secret, behind locked doors someplace, probably in most cases overseas, and bring it to Congress and say to Congress, ''You weren't there when we negotiated this trade agreement, but you have no right to offer amendments to it.''

The last three trade agreements under fast track have been incompetent. I voted against all three. In each case we have, as a result of it, had higher and higher trade deficits—Canada, Mexico, GATT—record trade deficits. This country is choking on trade deficits. I think to bring fast track to the floor of the House and the Senate in the final 2 weeks is regrettable.

I will, again, to the extent I have any capability of slowing this down, there will be nothing fast about it. If I can create a legislative bog through which they cannot pull this fast track, I guarantee you I will object to every circumstance that allows anybody to short-circuit any amount of time to try to get fast track through this Congress. It is not in this country's interest to continue that kind of trade policy.

A TAX CUT AND THE SOCIAL SECURITY TRUST FUNDS

The third item is an $80 billion tax cut paid for with Social Security trust funds. Some say, ''Well, that's not the way it's paid for.'' Show me the money. Where do you get the money? You get the money for a big tax cut by taking Social Security trust funds that are in a fund that is preceded by the word ''trust.'' Taking those trust funds and saying these now represent the resources by which we can offer a tax cut is not the way to do this country's business.

When we have that debate—and I expect we will next week or the week after—it will be an aggressive debate because some of us are fiercely determined never to let that happen. I recall when we had the constitutional amendment to balance the budget on the floor of the Senate, I voted against it. In fact, it lost by one vote. Had some folks pretty upset with that vote. I said, ''It's not that I don't want to balance the budget, I do.'' I helped play a role in balancing or nearly balancing this country's budget, not by writing something in the Constitution, but by doing the kinds of things you need to do on a day-to-day basis, to do things on taxing and spending that really does balance the budget. But to write into the Constitution a proviso that says, ''Let's balance the budget by describing all revenue coming in as operating revenue'' is to mistreat the Social Security trust funds once again. And to actually write it in the Constitution of the United States, that does not make any sense to me.

It does not make any sense to me in the final 2 weeks of a legislative session coming up to an election for anybody to say we are going to package up $80 billion in tax cuts so we can say to the American people we are offering tax cuts, when in fact the money by which they offer these tax cuts is to take the money out of the Social Security trust funds and make them available for tax cuts.

Those moneys are not available. Those moneys were collected from paychecks in this country. The paychecks are a result of the work of the American people, and they are told ''We're going to take some money from that paycheck to put into a trust fund because it is needed when you retire to make Social Security viable.''

Then somebody comes along and says we are changing the words ''trust fund''; we will just drop ''trust.'' Maybe we should amend that to the extent they want to bring $80 billion in tax cuts to the floor, paid for by Social Security trust funds. Perhaps we ought to require them to take the ''trust'' out of the trust fund name. That will, in my judgment, certainly abridge the trust that is supposed to exist with those trust funds.

Those are three big mistakes in a very short time. The potential, in a small amount of time, to make big mistakes is very substantial: H.R. 10, fast track, and tax cuts.

I have a lot of things I want to get done, others have a lot of things they want to do, and in most cases we work closely together and have good relationships, but on large public policy issues like this it seems to me we ought to be very careful. I feel very strongly about all three of these areas. All three, in my judgment, would be a mistake.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, here we are, Friday at 11 o'clock. Most Americans are out working the fifth day of the week, and the Senate is in a quorum call while we have important business to attend to. None is more important, I think, than the consideration of the Patients' Bill of Rights. I took time yesterday on the floor of the Senate when we had a long quorum call, asking why we weren't debating the Patients' Bill of Rights, as I did the day before. And here we are midmorning on a Friday—a workday for most Americans—just going through the motions before recessing, with a cloture vote scheduled late Monday afternoon.

We could debate this issue all day today, could debate the issue all day on Monday, and we could have some resolution to the kinds of protections that we are talking about in the Patients' Bill of Rights. We have written these protections into legislation and we have described these protections on the floor. We have challenged our friends on the other side, the Republican leadership, to permit us an opportunity to debate and vote on the kind of protections that are outlined in the legislation introduced by Senator DASCHLE.

However, we have been denied the opportunity to bring up this legislation, and to debate these various protections. Instead, we have continued in the Senate to move forward on other pieces of legislation which, as important as they are, don't measure up to what I think most families are concerned with—and that is ensuring the protection of the health of themselves, their children, and their parents.

Endorsements of various groups and individuals are important in some instances, less so in other instances. But I daresay that in this particular instance virtually all of the leaders in the health debate—certainly the doctors, nurses, and patient coalitions—have endorsed our proposal. We have been asking the Republican leadership for the names of the organizations that endorse their program. And we are still waiting to hear from the other side which medical professional groups have endorsed or supported the Republicans in this debate. I do not think there are any leading groups that support their plan, while virtually all support our legislation. Still, we are denied the opportunity to debate these issues.

Now, yesterday Senator GRAMM took the floor for an extended period of time to attack our plan. He said that the Republican solution was a new kind of insurance policy called medical savings accounts. The fact is that our bill takes medical decisionmaking out of the hands of the insurance company accountants and puts it back where it belongs, with the patients and the doctors. The Republican program is a sham and it gives the appearance of reform without the reality.

I was struck by the fact that my friend, Senator GRAMM, accuses the American people of wanting something for nothing, of wanting a ''free lunch.'' I object to this characterization of the patients who want protections from the health insurance company abuses. That is what we are basically talking about. What is at the heart of the legislation that we support is ensuring that medical professionals—doctors, nurses, and the trained medical professionals—make medical decisions. Those who are opposed want to maintain the status quo. They want to permit, in too many instances, insurance company accountants to make medical decisions.

Now, a number of HMOs work well. Managed care in its best form can be good for patients. There are even a number of HMOs that support our particular proposal. And portions of our legislation are drawn from standards adopted voluntarily by some plans. But the problem is the bad apples that reach their medical decisions not on the basis of what is necessary from a medical point of view, but what is necessary from a bottom line point of view or the profit point of view of the HMO. That is the fundamental, basic issue. That is it.

The good HMOs are complying with the kinds of protections that we have here. But a great many of other HMOs are not. We want to make sure that the patients are going to get what they pay for and what they are entitled to, and that their medical decisions are made by medical personnel and not accountants for insurance companies.

Now, that fact is not understood by the Senator from Texas. What he has basically done in his presentation yesterday is accuse the American people of wanting something for nothing—I use his words: ''a free lunch.'' Those are the words the Senator used. Mr. President, I object to the characterization of patients who want protection from health insurance company abuse as patients who want a free lunch.

I don't think a cancer patient who needs access to a specialist or a cancer treatment center wants a free lunch. I don't think that a family with a child experiencing seizures is asking for a