

worked and built a broad-based coalition and yet recognized that this really is an equity that we seek throughout this country. It is not always easy and not always easy to obtain. But I thank them for their cooperation.

Mr. President, I know of no other Senator who seeks the floor, but let me say this before I suggest the absence of a quorum. We have now, as far as I can see, disposed of all of the outstanding amendments that I have been made aware of up until this point.

If Senators do have amendments that they wish to offer, I hope they will do so. I believe the leader is going to seek a unanimous consent to put out over the hotline to get a time certain to vote. We have made great progress. Again, I urge my colleagues to have their staffs meet with our staffs or come to the floor to take up any question they might have so that we can resolve these issues and continue the progress that we have made on this bill.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

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

Mr. DORGAN. It is not my intent in any way to interrupt the consideration of this bill. I say to the managers if someone comes to the floor with an amendment, if they will give me a signal, I will promptly relinquish the floor.

#### AGENDA FOR CONGRESS

Mr. DORGAN. Mr. President, I want to take just a minute to discuss an item that has shown up in a number of newspapers and columns in the last week or two. I will read a couple of headlines. "Congress and the Clock." "They Seem at Times to be Running on an Empty Tank." "A Do-Nothing Congress Could Turn Into a Do-Little Congress." "AWOL Congress."

The point that is made by some editorial writers and some others is that there is not much of an agenda. Well, we have the highway bill on the floor of the Senate now. This is very important. I want very much to get this done and get it done promptly. This is last year's business being done this year. Let's get it done and provide some certainty with respect to our plans and our desires to invest in our country's infrastructure, highways and roads.

When we complete this piece of legislation, it is not the case that there is not an agenda here for the Congress to consider. Many of us have developed an

agenda that is very aggressive. We have an agenda to save Social Security first. We would like very much for the Senate to vote on that proposition, a sense-of-the-Senate resolution that says it is our intention to save Social Security first. The question here is, if there is, in fact, a brighter picture ahead with respect to Federal deficits, what is to be done. Some want to spend it, some want to provide tax breaks. The President says let us save Social Security first. I hope very much we can have a vote here in the Senate that says we agree, let us save Social Security first. That is the first and the best priority for this Congress.

Second, we want to consider legislation to protect health care consumers. There are 160 million people now enrolled in managed health care plans in this country. Yes, some managed care plans can and do save money. They can, in fact, improve care. But medical decisions ought to be made by health care practitioners, not insurance company accountants. Many in this country are very concerned about their treatment by their managed care plan.

The President has proposed a patient's bill of rights to provide some basic protections for patients. You have the right to know all of your medical options, not just the cheapest. You have the right to choose the doctor you want for the care you need. And you have the right to emergency room care you need whenever and wherever you need it. You also have the right to keep your medical records confidential.

We believe very strongly that one of the first items of business in this session of Congress should be to address the question of managed care.

Here is an essay written by Dr. Ronald Glasser titled, "The Doctor Is Not In," and subtitled "On the managed failure of managed health care."

Let me read a couple of paragraphs of this article by Dr. Glasser, a Minneapolis pediatrician and the author of several books. He writes in this essay:

We are born, we live, and then we die, but these days we do so with less and less help from a medical profession paid to discount our suffering and ignore our pain. Proofs of the bitter joke implicit in the phrase "managed care" show up in every morning's newspaper, in casual conversations with relatives or friends recently returned from a hospital or from what was once thought of as a doctor's office instead of an insurance company's waiting room, and in a country generously supplied with competent and compassionate doctors, 160.3 million of us now find ourselves held captive to corporate health-care systems that earn \$952 billion a year but can't afford the luxury of a conscience or a heart.

Dr. Glasser, in his essay, talks about the denial of certain health care. He says,

Such forced denial of care occurs at a time when new medical and surgical technologies allow physicians to treat and often cure any number of conditions that only a few years ago could barely be diagnosed; organs now can be digitally reconstructed in three dimensions to locate previously inoperable tumors; heart attacks can be stopped with in-

jections of a compound known as tPA; blind people may wake up and see with implanted plastic lenses, one-and-a-half-pound premature babies, once given up for lost, routinely are nursed to health; a new generation of medical research brings us genetically engineered tests and one nearly miraculous drug after the next. At the same moment, presumably well-insured women diagnosed with disseminated breast cancer must hire lawyers to have their health plans pay for life-saving bone-marrow transplants and managed-care companies can deny powered wheelchairs to handicapped children who pass a "utilization review" showing them able to stagger twenty-five feet with the help of a walker.

This is a long and fascinating essay about managed care. My colleagues have heard the stories that have persuaded many of us that this Congress at least ought to address the question of what patients' rights are in managed care.

A 27-year-old man from central California received a heart transplant and was discharged from the hospital after 4 days because his HMO would not pay for additional hospitalization. Nor would the HMO pay for the bandages needed to cover the man's infected surgical wounds. The patient died.

An otherwise healthy 2-year-old boy who had suffered a fall was taken to a local hospital with a stick lodged between his upper lip and his gums. Once there, health care providers repeatedly misdiagnosed the boy's condition and refused to authorize an \$800 CT scan that would have confirmed the boy was developing a brain abscess. The result? The boy was left blind and brain damaged.

A 54-year-old man who just had prostate surgery was told by his HMO he must leave the hospital within 24 hours of his surgery because the HMO wouldn't pay. He had to go home where there was no one to care for him even though he was still bleeding, had to wear a catheter to drain his bladder, and couldn't walk.

The stories go on and on. Most of us have heard the stories in our hometowns, our States. One managed care organization recently stated it would not pay for more than 5 hours of epidural pain relief for labor pains. Doctors objected, saying that some labor pains go on for more than 20 hours. One wonders whether the insurance company employee who said we will limit the coverage for epidural relief to 5 hours has ever been in a hospital experiencing the pain of childbirth. My guess is no.

We now have a circumstance where, all too often, the operation of the emergency room is a matter of profit or loss. There was an article about a woman in the New York Times recently. She was in an ambulance with her brain swelling from an injury just received, and she told the ambulance driver, "Do not take me to the closest hospital." And she named the hospital farther away where she wanted to be taken that did not have a reputation for making cost its bottom line. She said later that she didn't want to be

taken to the other emergency room and have somebody make a decision about her life that related to their bottom line, to their profit and loss. A lot of Americans share her concern.

So we have an agenda. We have an agenda on managed care that says there ought to be a patient's bill of rights. People ought to know what their medical options are. No accountant 500 miles away from a hospital room or a doctor's office ought to be giving guidance on whether a doctor's judgment is appropriate with respect to treatment. And yet that is what is happening in this country.

We have an agenda on managed care. We think it ought to be one of the first items of business here on the Senate floor when we finish the highway bill. Let's talk about managed care. Let's talk about the health care. Let's talk about the 160 million people who are in managed care plans and ask the question, what does this plan mean to my health care? to my family's health care? to my children's and my parents' health care? What does it mean to our pocketbook? What kind of coverage exists for us today, tomorrow and next month? This Congress needs to be debating and answering some of those questions. These are life-or-death issues, not matters of inconvenience.

So when someone says the Senate doesn't have an agenda, they aren't talking about us. We have an agenda, but regrettably, we didn't win the Senate. The majority party that controls the Senate won the election. We understand that when votes are counted, whatever party wins wins, and they control the House and the Senate. But I want everybody to understand, when they see an editorial titled "Congress Gone AWOL," "Congress and the Clock," "70 days left," or "A do little Congress," that for some of us there is an agenda.

Many of us have very strong feelings about what issues the Senate should be considering—managed care, education, tobacco legislation, a whole series of issues that we want brought to the floor of this Congress and debated. The fact is we have some who, without question, want to have the engine running but have the transmission in idle. They don't want to go anywhere. They just want to claim the car started. We would like to put this car in drive and drive towards an objective that we think represents the best interests of this country.

On education, we understand that State and local governments should make the main decisions in elementary and secondary education. But many of us also believe that we have a national interest in trying to reach goals and achievements as a country in elementary and secondary education. The President and those of us on this side of the aisle are very concerned about trying to find some way to address the issue of class size. Are there things we can do with respect to class size and modernizing schools? For example, we

understand that reducing class sizes can have a substantial impact on the teaching of children. Smaller class size means more attention is paid to each of the children, and we understand that is important.

The issue of modernizing schools—many of our schools all across this country are 30, 40, and 50 years old and in disrepair. I have been in schools, unfortunately, like the Ojibwa School on the Turtle Mountain Indian Reservation. These are schools children shouldn't be in. Reports from the General Accounting Office about the schools say they are unsafe. I have seen light fixtures dangling from the ceilings and frigid winter air coming through the trailers that masquerade as schoolrooms. We can do something as a Congress to modernize schools and remedy their state of disrepair. We want to talk additionally about the issue of minimum wage, about those at the bottom of the economic ladder. We made a couple of adjustments in the minimum wage on a bipartisan basis, but we need to further consider how to restore its purchasing power, not to a level above where it used to be, but to a level comparable to where it historically has been.

It is interesting in this country that we have a market system that is very generous to some and not to others. That is the way the market system works, and I accept that. In the market system we have in this country we have a right to make choices. I certainly don't want to discontinue those choices. But by our choices we've created a system where a man who is 7 feet 2 inches tall and can dunk a basketball gets \$120 million. Where does that come from? It comes from folks who watch television or go to a basketball game, if they can afford to do so. But that's \$120 million for somebody who can dunk a basketball and \$30,000 for an elementary schoolteacher.

Which one would you pick? We make choices in the public and private sectors. Actually, when I refer to the private sector, there are not exactly unimpeded economic circumstances in professional basketball, where somebody makes \$120 million, because it is not exactly an open and free market system. There are different circumstances in professional basketball because they limit the number of teams and so on.

My point is that the question of what we invest in both publicly and privately in this country determines a lot about what kind of a country we are going to have in the future. Our agenda, which we think would improve this country, deals with health care and education and jobs and income opportunity—a whole range of issues that we think represent good and strong positions for this Congress to consider. So the reason I came to the floor this afternoon is to say that the next time I see one of these editorials that says "do nothing, do little, march in place, you know, the car is in idle," we have

plenty to do. If we finish the highway bill this week—and I hope we will and I will support all the efforts to get this done quickly—then I hope next week we can grab a hold of a significant part of this agenda that we feel is important. If we do this, I think the next editorial will say, gee, they tackled education and health care and a lot of things that are very important to the people in this country.

I yield back the balance of the time I haven't used.

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

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

#### INTRAMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Mr. President, I have an amendment I will offer on behalf of Senator NICKLES, which would permit basically his mass transit funds to be used as it related to the funding of Amtrak activities in his State. I know of no opposition.

##### AMENDMENT NO. 1943 TO AMENDMENT NO. 1931

(Purpose: To permit States to use assistance provided under the mass transit account of the Highway Trust Fund for capital improvements to, and operating support for, intercity passenger rail service)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. NICKLES, proposes an amendment numbered 1943 to Amendment No. 1931.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

#### SEC. . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(o) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of the date of enactment of this subsection from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.”

Mr. D'AMATO. Mr. President, this makes no changes in the allocations of the appropriations, but it empowers the State transportation people to