

or the country to permit Tony Lake's nomination to be unfairly delayed or to get mired in partisan politics. This nomination should be judged on its merits. That is all the nominee, that is all the Commander in Chief, that is all any of us who support him are asking. Delay and political warfare risks doing serious damage not only to Tony Lake's honor and good name but also to an agency that has traditionally enjoyed and still fundamentally and seriously deserves bipartisan support. The CIA and the intelligence community are at a crossroads. They need a principled and strong leader now, and that man is Tony Lake.

Mr. President, at the end of the column he wrote for the Wall Street Journal, Bob Gates summed it up very well, and I quote finally from that article. Bob Gates says:

As the last CIA Director, nominated by a Republican President and confirmed by a Democratic controlled Senate, I strongly believe that hard questions should be asked of Mr. Lake and then he should be confirmed expeditiously with broad bipartisan support. This would be in the best interests of the country and of the intelligence community.

I thank the Chair and I yield the floor.

Mr. BYRD addressed the Chair.

THE PRESIDING OFFICER (Mr. ROBERTS). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, first I wish to thank the distinguished Senator, Mr. CRAIG THOMAS, for his consideration in allowing me to go ahead of him. He has been patiently waiting in the Chamber to be recognized, but he has generously acceded to my request that I be permitted to proceed in that I have an important appointment to meet. I will be very brief.

#### WAIVING DIPLOMATIC IMMUNITY

Mr. BYRD. Mr. President, I commend the President of the Republic of Georgia, Mr. Eduard Shevardnadze, for the unusual but very appropriate action that he has recently taken regarding the actions of one of his nation's diplomats in Washington.

As has been widely reported, President Shevardnadze broke with longstanding international precedent and waived diplomatic immunity from prosecution in the case of a Georgian diplomat who was arrested for a particularly outrageous incident of drunken driving, resulting in a high-speed crash and the death of a 16-year-old girl.

Diplomats have a special responsibility for representing their countries in all manner of civil societies and all manner of governmental regimes. To prevent their being subject to harassment, punishment or other actions which would interfere with their representational functions, immunity from prosecution has been a time-honored protection.

Now, we have to think of our own diplomats, those who represent the

American Government who are abroad in countries that do not have the due process principles for which our country is noted and working under the Constitution which we have and which protects citizens.

Mr. President, somebody ought to call attention to this, and it just seems to me that more of us ought to take notice when something like this happens. And we should not only speak out against the heinous crime that was committed but also we should compliment the head of the foreign government that exercises and demonstrates high purpose and responsibility in a situation such as this.

However, diplomats also have a special responsibility for exemplary personal behavior, given their favored status. The tradition of immunity is not a license to behave in any but the most commendable manner. Immunity was not designed to protect loose living, risk taking or unlawful activities. Therefore, the action by President Shevardnadze in removing diplomatic immunity so that his diplomatic representative can stand trial for his outrageous behavior does not erode the traditional protection of diplomats but, rather, reinforces the need for diplomats to act properly and lawfully.

I hope our own diplomats abroad would act properly and lawfully. I could not condone any action that was not proper and lawful, and our government should not condone it on the part of our own diplomats.

President Shevardnadze is a highly respected leader in a very difficult part of the world. The Caucasian states of the Caspian region have been subjected to continuous, sometimes very heavy-handed pressure from the former Russian overlords who resent their independent, sovereign status as new nation-states. Georgia, Azerbaijan, and Armenia all fall into this category. The leaders of these nations have upheld their independence under great pressure. We have to commend them for demonstrating that kind of courage. They have good independent judgment, and they deserve the support of the United States. The action of waiving immunity in this flagrant, flagrant case that I have referred to is a good example of the sound independent judgment of President Shevardnadze, and I highly commend him and am proud to stand on the floor of the Senate today to recognize the wisdom he has shown and the courage he has demonstrated.

Mr. President, I thank my friend, Senator THOMAS, again, and I yield the floor.

THE PRESIDING OFFICER. Who seeks recognition? The Senator from Wyoming is recognized to speak for up to 30 minutes.

#### THE MEDICARE PAYMENT EQUITY ACT

Mr. THOMAS. Mr. President, I will not, myself, use 30 minutes.

I rise today to talk about a bill we introduced this week, introduced the

day before yesterday, along with several of my friends from rural areas, including the Presiding Officer and Mr. GRAMS, who joins me, the Senator from Minnesota. We will talk a little bit about the Medicare Payment Equity Act.

I come from a place called Wapiti, WY. It is actually a post office between Cody and Yellowstone Park. This is a rural area. So, the unique problems of rural medicine are near and dear to my heart.

We have in the Senate what is called a rural health caucus which, actually, 77 Senators have shown an interest in. I do recall the rural health group in the House, as well, which was very active and, as a matter of fact, the Senator from Kansas, now presiding, was co-chairman of that group.

So, we have a bill that deals with rural health care. And there are unique problems in rural health care. Other sponsors include Senator BURNS from Montana, Senator GRASSLEY from Iowa, and Senator KEMPTHORNE from Idaho.

Basically, it is a question of fairness. All Americans pay the same rate into the payroll tax for Medicare, and I believe, as I think all would believe that each, then, deserves the same kind of health care and the same kind of health care choices, the same kinds of services for having paid that. But that is not the case. The payments for Medicare, managed care within Medicare, are greatly different throughout the country. They are greatly different largely because they were put into place, as a matter of history, as a matter of utilization in the fee-for-service area. So they vary a great deal.

This chart will give some idea of what they are. Remember, each of these folks who receives these benefits has paid in similarly. However, the payments for managed care in Medicare, in Arthur, NE, are \$221 a month. On the other hand, in Richmond County, NY, \$767 a month. You can see the changes that exist here, and they are basically the highly utilized areas, the Floridas, the New Yorks and others who, in history of payments, have had high utilization so have a history of higher payments. The costs are not necessarily the same, but they are not that much different. What has happened is these risk contracts have basically been set on history and give enough additional services to take up that additional dollar. Not only do they get more money but they get more services.

Here, in Blue Earth County, MN, the yearly payment is \$600. Portland, OR, had \$500; the beneficiary has to pay additional money, as is shown in the yellow. However, in Dade County, in Florida, the payment is \$8,200 dollars a year. Not only do they get the additional payment, they have unlimited prescription drugs, a \$700 credit for hearing aids, and have a great deal of additional benefits. Remember, all of them pay the same into the program.

So what we have is a bill that would, over time, tend to equalize or at least levelize these kinds of payments.

There are cost differences. The costs in New York City for rent and other kinds of things are higher than they are in Greybull, WY. We are willing to take that into account. However, expertise, medicines, and other kinds of things are just as valuable in Kansas as they are in Florida.

So, what we propose to do and what this bill does is, rather than to continue this kind of reimbursement that is so out of place, it would gradually bring into account not only the costs that differentiate, but also a national average, intending to level these out. We do not propose to reduce the costs that are in place in the higher levels but we do propose to lift the increases, bring the increases up in the bottom levels so Wyoming providers will have an opportunity to compete, to provide these kinds of care.

The other effect, in addition to not getting the kinds of services that are available through this inequity, is that users, seniors in Medicare who would like to have the option of managed care, really do not have it in rural areas because it has not come, due to the payments. For example, where is there growth in managed care and Medicare? Only 3.6 percent in rural areas have an opportunity for this. On the other hand, it is over 70 percent where the benefits are high, in the larger areas.

So, our proposal is to equalize, at least move to equalize these payments, to move to equalize these benefits to reflect the fact that everyone pays the same and that there ought to be some equity with respect to the benefits that are provided. It is a fairness bill. It is one we have talked about before and, indeed, was part of the omnibus bill last year which was vetoed by the President.

So we come back with it singled out to show that there is a problem, there is an inequity, there is an unfairness between rural and more populated areas. This bill, the Rural Medicare Payment Equity Act, will move to remove that inequity from Medicare and managed Medicare to all seniors of this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I am also pleased to be here this morning and to join with my colleagues in introducing the Medicare Payment Equity Act, as the Senator from Wyoming has just outlined. The passage of this legislation, I believe, is critical in righting the wrongs in the Medicare system against States like Minnesota, Kansas, Wyoming, and some of the other more rural States in the country.

There are three points I would like to emphasize, just to add to what the Senator from Wyoming has already said. First, again, to reiterate, the Medicare reimbursement formula is just plain

unfair. While every American pays the same payroll tax to the Medicare trust fund, Minnesotans find themselves with the second-lowest reimbursement rates in the Nation. By the way, every county in Minnesota falls below the national average in the terms of Medicare reimbursement.

Second, the Medicare reimbursement formula discourages quality health care. My State of Minnesota has been consistently recognized throughout the Nation as one of the most innovative, one of the most efficient and cost-conscious States in the terms of health care. Yet these very same qualities, the traits which should be encouraged, not discouraged, have skewed the Medicare formula against our providers and also against our beneficiaries.

Finally, the Medicare reimbursement formula discriminates against senior citizens who live in rural areas of America. These older Americans already face fewer health care options than those who live in urban centers. That is due to the lower reimbursement rates received by health plans. However, there is no incentive for them to offer managed care services. So that means fewer choices for the senior citizens who are living in rural parts of the United States.

So, Mr. President, the system needs to be changed and that is exactly what our legislation does. By making fundamental corrections to the Medicare reimbursement formula, this bill will restore equity, it will help to expand access, and will also help to ensure a greater array of health care choices to beneficiaries in States like Minnesota as well as across rural America. It will change the system, and I am very proud to join my colleagues in introducing this very important piece of legislation.

Again, I am pleased to be here to join my colleagues again in reintroducing and supporting the Medicare Payment Equity Act.

I yield the floor.

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

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today, as was indicated by my colleagues, Senator THOMAS and Senator GRAMS, to speak to the Medicare Payment Equity Act of 1997. Like my colleagues have indicated, this legislation will hopefully end the longstanding unfairness that denies the Medicare beneficiary in rural counties the same services and benefits that their urban peers receive. As has been indicated by both of my colleagues, all Americans, whether they live in the city or whether they live in the country, pay the

same 2.9 percent of payroll to the Medicare trust fund all during their working lives. All Americans who choose Medicare part B pay the same monthly premium, but that is where the similarities stop.

Based on the geographic area where seniors choose to retire, they receive vastly different choices and benefits. Seniors living in New York City or in Miami, as has been indicated by my colleagues, are offered more options to the Medicare system than almost all of Kansas' 400,000 seniors who rely on Medicare. Many of these plans have no additional premiums, and they may include extra benefits, such as prescription drug coverage or hearing aids or eyeglasses, just to name a few.

Let me demonstrate what I am talking about. When a Kansas senior citizen visits a relative in Miami or New York or Phoenix or some other metropolitan area and talks to his brother, his cousin or any relative and learns that they receive, under their managed care plan under Medicare, free eyeglasses, free prescription drugs, even exercise lessons, of course, then that senior citizen goes back to Kansas or Wyoming or Minnesota, or any other rural area, and they do not have that opportunity. Yet, they pay the same amount.

Why does this happen? The difference is really due to the payment formula used to finance the managed care plans under Medicare. I am going to quarrel a little bit with the description of managed care. I know that has a connotation in some areas, quite frankly, as rationing health care. I know that is harsh. Why don't we use the term "physician service network"? The acronym—everything has to have an acronym in Washington—is PSN. It allows the local hospitals, local doctors, local administrators and the boards to join together, which they are already doing, and offer, yes, a managed care plan, but it is a physician service network.

We have something like that in Kansas in Salina where about 13 hospitals have joined together under something called "the sunflower network." We hope and we think that if we can offer that option to our seniors, we can hold the Medicare costs down, but we can bring them better delivery. It is a voluntary plan, it is not mandatory, and certainly we think that is part of the overall Medicare reform plan.

Basically, under the current system, Medicare rewards any beneficiaries who live in an inefficient medical market and punishes those who participate in health plans that operate in efficient markets.

Medicare pays these health plans a capitation payment based on regional fee-for-service costs. This payment is known as the adjusted average per capita costs—here is another acronym—AAPCC rate. That is extremely important in regards to the health care field.

The variation in the AAPCC rate is extreme. As has been indicated by my

colleagues, for example, the AAPCC rate in Richmond, NY, is \$767 per Medicare beneficiary, while the AAPCC rate for my constituents in Republic County, KS—Belleville is the county seat—there it is only \$265. This county is almost the lowest paid county in the United States. In fact, 93 percent of all counties in Kansas are at or below the national average of \$467.

Clearly, there are cost factors that account for some of this difference, but as Senator THOMAS has pointed out, a difference of over \$500 is simply unexplainable. This legislation really does address this issue by creating a new payment formula for managed care plans. Specifically, our bill establishes a minimum payment for rural counties of 80 percent of the national input price adjusted capitation rate. This will ensure all payments, even those in rural counties, will cover the comprehensive benefits.

This legislation also includes an aggressive blend of national and local rates that will raise the lower payment areas closer to the average, while taking into account actual input cost differences that exist from one region to another. This rate, which is based on an average of 3 years of past data, will smooth the payments and reduce all of the volatility price differences. It is a transition.

Finally, this legislation excludes the disproportionate share of payments and graduate medical education funds from the calculations of the formula.

Mr. President, this inequity must stop. Until we end this inequity, Medicare beneficiaries will not have the choices they deserve. We will not control the Medicare costs that in some areas are out of control. Hospitals and doctors will not have the tools they need to compete in today's physician service network markets, and Medicare will continue to overpay health plans in inefficient markets.

I want to add one other thing, lest people misunderstand. This is not an either/or choice. Senator THOMAS, Senator GRAMS, myself, and Senator BURNS are not trying to take away anything from Dade County, FL, or New York or any other urban area. Under our formula, the premiums will increase by 2 percent. That is not the idea here. We are merely trying to equalize this on a transition basis.

I urge my colleagues to join us in support of the Medicare Payment Equity Act. That is precisely what it is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. GORTON. Mr. President, is the Senate under any time rules?

The PRESIDING OFFICER. We are in morning business, with 5 minutes per Senator.

Mr. GORTON. I ask unanimous consent I might be permitted to speak for up to 10 minutes.

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

#### BALANCED BUDGET AMENDMENT

Mr. GORTON. Mr. President, the long and often thoughtful debate over the balanced budget amendment is now drawing to a close. It is also apparently drawing to a regrettable unsuccessful end unless a sudden flash of enlightenment takes over the minds and hearts of one or more of the opponents to this amendment.

Nevertheless, I believe it appropriate for every Member of this body to state his or her reasons for support or for opposition to the amendment. While I have done so in part, at least in the past, I should like to share with my colleagues some of my thoughts on the subject.

Mr. President, from my perspective, perhaps the single most important reason for voting in favor of this constitutional amendment, for including a requirement making it considerably more difficult to spend money that we do not have, is a moral or ethical one.

Mr. President, we living today, representing the people of our States today, simply do not have the right to spend money to undertake obligations which we collectively are unwilling to pay for, thereby consuming whatever goods or services Government provides to us today and sending the bills to our children and to our grandchildren. Mr. President, that is simply the wrong thing to do. We should not engage in that practice at all, and it is a simple disgrace that we have now engaged in it in each and every year for almost three decades.

Now, I am aware of, and I subscribe to, the positive economic impacts of balancing our budget. It is clear to me, as it is to most, that it will mean lower interest rates which, in turn, make it easier for young people—for all of our people—to purchase a home, an automobile, a college or university education. At the same time, a balanced budget provides more economic growth and, thus, greater opportunities, again, for all of us, but particularly for generations just moving into the work force. These are important arguments. These are goals that we all ought to see. But I believe that the balanced budget amendment would be imperative even if we were not able to prove in our own minds the economic benefits of the amendment. For the reasons that I have just stated, it is wrong for us to spend the debt and to send the bills to those who are not represented here, who, Mr. President, in most cases, have not yet been born.

In this long and leisurely and thoughtful debate, we have been given

dozens of reasons not to pass the amendment. Dozens of scarecrows have been raised: We can't respond to a military emergency that does not involve a declaration of war. We can't respond to a physical disaster. We can't build our infrastructure. Social Security, or some other program, may be hurt by a balanced budget constitutional amendment.

Mr. President, first, as someone interested in the history of our country, I am reminded by the recitation of these objections to nothing so much as the case against adopting the Constitution in the first place in 1787 and 1788. These arguments stem, just as did those arguments more than two centuries ago, from a fear of the unknown. But, Mr. President, those fears must be weighed against the actual, tangible history of the last half century. And that actual, tangible history shows us that, regrettably, we do not, without some constitutional constraints, balance our budget. In fact, in my mind, each one of those threats is more likely to become reality if we don't balance the budget than if we do.

A balanced budget will provide a far stronger economy for the support of Social Security, a far stronger framework for the building of our infrastructure, and a far stronger structure within which we can provide for the education for our young people than does the present system, which threatens all of these things by the accumulated burden of the debt, added to each year by the amount of its annual deficit. So the very threats that are causing Members to vote against this constitutional amendment are more likely to come true if they are successful than if they are not.

Mr. President, this may well be the most important single vote that we cast during the course of this Congress. It is our duty, whether the constitutional amendment passes or not, to produce for the people of this country, for our colleagues, a budget which is balanced in fact. And it is clearly possible—though history gives very little cause for optimism—that we may do so in the absence of this amendment. At least this debate has led to lip service on the part of the President of the United States and almost every Member of this Congress to the proposition that we should do so. But to see to it that not only we do so, but that our successors do so, that we break the mold of the history of the last decades, the passage of this amendment is absolutely essential.

I am pleased that all of my colleagues on this side of the aisle plan to vote in favor of the constitutional amendment. I hope that a sudden flash of enlightenment on the other side of the aisle will help us to get the necessary 67 votes.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 15 minutes.