

that, we can save a lot of money and produce a better program.

We also need to address other entitlements. For example, the Federal retirement program is one of the largest categories of entitlements. It cannot escape reform as we undertake a fair and balanced approach to entitlement reform. The American taxpayers bear the full cost of Federal retirees' annual COLA adjustments, a feature that virtually no private pension plan shares and that was not part of the Government's original retirement contract with Federal workers, and we must do something to control that growth.

There are innumerable—literally hundreds—of smaller entitlement programs, including some popular ones in the area of agriculture, unemployment compensation, and a variety of others. But all of these should be put under the microscope of review and we should ask the questions: Do they work? Should they continue to exist? Can they be improved? If we ask those questions, we will find in all instances the answer is they can be improved, and they can be delivered more efficiently and for less cost.

While balancing the budget will mean examining the operation of some sacred political cows, it can be done. While in some cases we will decide that the Federal Government just cannot afford to continue funding some activities, in most cases entitlement reform will simply result in better Government being delivered, probably, to more people.

Unfortunately, however, it appears that the Congress will have to go it alone. The President is offering absolutely no help. In fact, as the CBO report and the President's recent appearances tell us, his actions seem to be just making things worse. Just when the national predicament calls out for strong fiscal leadership, the President is doing exactly the opposite. He is telling every interest group he appears before that they deserve more money. He just told the Iowa farmers that they need to spend more money on pigs, more pork. It really is outrageous.

Still, Congress must forge ahead. We must act to preserve the Medicare system so our seniors are not faced with a bankruptcy, which cannot be debated, and which has been predicted by their trustees, so that they will have an insurance trust fund that is there for them and for the next generation. We must act to preserve our children's future by moving to balance the budget by the year 2002.

These will not be an easy 2 months as we go through the process of accomplishing these goals. We will have to make serious and difficult decisions. But I hope this Congress will not take the course that the President has and walk away from the matter. We need to undertake this issue of bringing solvency into the Medicare fund for the benefit of our seniors. We need to undertake balancing the budget for the benefit of our children.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

HEALTH CARE

Mr. WELLSTONE. Mr. President, I know the Senator from Arizona is here. He is going to wish to lay down an amendment and speak about it. I have an amendment that I laid down on Thursday that I want also to speak on. But I thought we might stay in morning business just for a few minutes and I might respond to my colleague from New Hampshire and then we will go back on the bill. I do not come with any well-rehearsed remarks, but as I was listening to the presentation of my friend from New Hampshire, I did want to respond in a couple of different ways.

First of all, I was immersed in the health care debate in the 103d Congress. Of course, at the very end, we were deadlocked and there was, on the part of a good number of Senators, I think, a very strong commitment to blocking any legislation from being passed and therefore we were not able to pass any kind of health care reform. I point out to my colleague that many of us made the argument that the only way we were going to be able to contain costs—and that included looking at Medicare and Medicaid, which are two very big Government programs—was within the context of overall health care reform.

I take exception to what I heard my colleague from New Hampshire saying in a couple of different areas. First of all, let me just be crystal clear. I think the proposition that on the one hand—at least some Senators have proposed this, and many in the House of Representatives have proposed this—we go forward with broad-based tax cuts which amount to about \$700 billion over the next 10 years, of revenue we would have to make up, and on the other hand go forward with cuts—some say just decreasing the rate of increase of Medicare—I think that proposition just will not be credible. It will not be credible with a lot of senior citizens, but that is not even the point. It will not be credible with their children and their grandchildren.

You cannot, on the one hand, say you are for deficit reduction and then move forward on broad-based tax reduction to the point where you have to figure out how to offset \$700 billion before you even go forward with deficit reduction, and at the same time be proposing fairly draconian cuts in Medicare.

I have said all along I actually feel quite credible on this issue because from the very beginning of this debate about balancing the budget by 2002 I have raised the question, "Why 2002?" I have raised the question of how you can do it without separating capital and operating budgets. I have tried to be intellectually honest about this. I have talked about dancing at two weddings at the same time.

I have said to citizens in Minnesota, beware of any breed of politician—Democrat, Republican, Independent—and others who say: On the one hand, you are going to have broad-based tax cuts, on the one hand you are not going to cut the military budget, on the one hand you are going to pay interest on the debt because we have to, on the one hand Social Security is going to be put in parenthesis and not touched, on the one hand now we are not going to really cut Medicare—but we are going to balance the budget, cut \$1 trillion, by 2002.

But students, it is not going to be higher education. Veterans, do not worry. And children, it is not true that we are going to cut the nutrition programs. The arithmetic of this does not add up. My colleagues are discovering that they are in this context—talking about balancing the budget—are going to have to propose deep and significant cuts in Medicare and Medicaid. Please remember about 75 percent of Medicaid payments do not go to AFDC mothers, or what we view as welfare, but actually go toward long-term care for the aged. It is not just older people we are talking about. We are talking about older people; we are talking about their children and grandchildren; we are talking about families in this country.

Now we have a new wrinkle where colleagues come out and say the trust fund is in trouble, and they talk about this as an actuarial issue. This is a benefits program. You can use all of the insurance language you want to about trust funds and talk about actuarial assumptions and all the rest. The fact of the matter is that in 1965 we passed the Medicare and Medicaid Programs in the U.S. Congress. It was an inadequate installment of universal coverage but nevertheless it was significant. From my family having had two parents with Parkinson's disease, let me just say one more time that Medicare, imperfections and all, was probably the difference between disaster and being able to at least live the end of your lives with some dignity. Both my mother and father have passed away.

Even so, with Medicare, Mr. President, elderly people pay four times as much out of pocket as people who are not elderly. Please remember one more time, since we have this stereotype of older Americans being rich and not having to really worry about any economic squeeze, that the median income for men 65 years of age and older is \$15,000; for women it is about \$8,000. This is no small issue.

Mr. President, last Congress we talked about how we could move forward on long-term care in such a way that we could have more home-based care. We, I think, reached some consensus, except, when we got to the point where we will have to dig into our pockets and figure out how to fund it, that elderly people and people with disabilities ought to be able to live as

near in normal circumstances as possible with dignity. They ought not to have to go to institutions when they could live at home. We put real emphasis on home-based care with a wonderful program in Minnesota, a block grant program not adequately funded. But we are funding it. It is wonderful. It makes all of the difference in the world, and it enables someone who is elderly to live at home. But we did not take any action on that.

We were also talking about some legislation. I introduced the single payer bill covering the catastrophic expenses. Medicare does not cover the catastrophic expenses of what happens to you when you are in a nursing home. Nor does it cover prescription drugs.

My colleagues are not in any of these proposals talking about any of that. They are talking about cutting Medicare. And they want to make the argument it is not really a cut, that it is just a lessening of the rate of increase. Well, why is it such a big surprise to my colleagues that a larger and larger percentage of our population are 65 years of age and over, and a larger and larger percentage of that population tends to be in their eighties? Of course, it costs money. That is what Medicare is about; the commitment to elderly citizens, and that we will fund a decent level of health care for elderly people in our country. This should not come as any shock. And it is a benefits program. It is a contract. It is a commitment we made.

Mr. President, there are, I think, steps that we can take. In some cities and some States you find that the cost of providing coverage is much greater than, for example, what it is in Minnesota. I am sure there are ways that we can move toward more efficiency.

But, Mr. President, I must say that all of a sudden this discussion about now what we are going to do is talk about the trust fund, we are not going to really say this is part of deficit reduction although it was always proposed before as part of deficit reduction. And in addition, we are going to give people all of these kinds of options. So they are really not options because managed care is the place in which you can have the savings but in many parts of the country, especially outside your metro areas, it is not a real option. And in addition, we say, if there are any savings by enabling people to develop to purchase vouchers or all the rest, then in fact we will be OK. But, if they are not, then we are going to have to make the deep cuts. There are not going to be any because, if there are savings, by definition they go to those individuals. They do not go to the Government. We are talking about public expenditures here and how to cut down on the public expenditures.

So I think that some of my colleagues are trying to dance at two weddings at the same time. There was all this bold rhetoric about how we were going to balance the budget by 2002, no question about it. I saw projections of quotes from colleagues that we were

going to be cutting Medicare by \$400 billion between now and the year 2002. That figure has gone down. But make no bones about it. That is what is being proposed.

Mr. President, I think what we ought to do is move forward on good health care reform, and there are three critical ingredients to that. First, universal coverage; and I promise my colleague from Arizona that I will be finished within 2 minutes. Second, cost containment—and, by the way, the Congressional Budget Office said really the way you can contain costs is you put some sort of limit on what insurance companies can charge. Third, we need to deliver care in some of our underserved communities like, for example, rural areas where we have to put much more emphasis on primary care, on family doctors, on advanced nurse practitioners, on nurses, getting health care out of the communities backed up by specialization.

It is in that context that we contain Medicare costs. But, if we just target Medicare, you are going to have the same irrational charge shifting. You are going to have true rationing by age, income, and disability. You are going to be hurting a lot of citizens in this country. And, we are going to be moving away from a basic commitment that we made in 1965.

So, I look forward to what I think is going to be an extremely important debate but I did want to respond to my colleague from New Hampshire. I am sorry he had to leave.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. KYL. I thank my colleague.

Mr. President, at this time, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 611 TO AMENDMENT NO. 603

(Purpose: To establish a limitation on noneconomic damages)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 611 to amendment No. 603.

Mr. KYL. 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 new section:

SEC. . LIMITATION ON NONECONOMIC DAMAGES.

(a) IN GENERAL.—With respect to any health care liability action, in addition to any award of economic or punitive damages, a claimant may be awarded noneconomic damages, including damages awarded to

compensate the claimant for injured feelings such as pain and suffering, emotional distress, and loss of consortium.

(b) LIMITATION.—The amount of noneconomic damages that may be awarded to a claimant under subsection (a) may not exceed \$500,000. Such limitation shall apply regardless of the number of defendants in the action and the number of claims or actions brought with respect to the injury involved.

(c) NO DISCLOSURE TO TRIER OF FACT.—The trier of the fact in an action described in subsection (a) may not be informed of the limitation contained in this section.

(d) AWARDS IN EXCESS OF LIMITATION.—An award for noneconomic damages in an action described in subsection (a), in excess of the limitation contained in subsection (b) shall—

(1) be reduced to \$500,000 either prior to entry of judgment or by amendment of the judgment after entry;

(2) be reduced to \$500,000 prior to accounting for any other reduction in damages required under applicable law; and

(3) in the case of separate awards of damages for past and future noneconomic damages, be reduced to \$500,000 with the initial reductions being made in the award of damages for future noneconomic losses.

(e) PRESENT VALUE.—An award for future noneconomic damages shall not be discounted to present value.

Mr. KYL. Mr. President, this is the noneconomic damages limitation amendment that many of us have been talking about for some time. I indicated earlier this morning that I would be introducing it. It works in tandem with the limitation on lawyer's fees to ensure that the victims of negligence are properly compensated and that neither the public needs to end up continuing to pay this tort tax that we talked about earlier nor that lawyers or others in the system become enriched at the expense of the victims of negligence.

This particular amendment would place a limitation of \$500,000 on noneconomic damages that are awarded to compensate a claimant for pain, suffering, emotional distress, and other related injuries.

Mr. President, every day in America, physicians take care of over 9 million patients. These are professionals who are dedicated to the service of their fellow citizens. They do a tremendous job. They serve in times of crisis and natural disasters often at great personal risk. A good example is the heroic service of the doctors in the aftermath of the bombing in Oklahoma City.

The medical profession is dedicated to doing everything possible to ensure that the practice of medicine conforms at all times with both Government rules and regulations and, of course, with the high standards that are inherent in the profession itself.

But physicians are not God. They are human like all the rest of us, and occasionally mistakes are made and sometimes patients suffer injuries as a result. When this occurs, injured patients must be awarded full and fair compensation for their injuries should they choose to pursue a legal remedy. But in today's litigious climate, roughly one-third of all physicians, 50 percent of all