increases. We must act now. Either my generation, the children of today's Medicare beneficiaries, will have greatly reduced opinions in the future, or our children will incur unprecedented tax increases.

Now, the President of the United States has failed to address this imminent financial crisis. In fact, the Clinton administration predicts Medicare expenditures will grow by a staggering 66 percent over the next 5 years. Yet, despite this forecast and despite the findings of the Medicare trustees and the entitlement commission, the President failed in his fiscal year 1996 budget to recommend even one measure to save Medicare.

We must act now. I expect that the President will rely simply on tax increases to maintain the program in the future, and that will work only for a short time, because it fails to address the underlying cause of the crisis. If nothing is done, the Medicare portion of FICA taxes would have to be raised by 125 percent. That is more than $700 taken out of a $40,000 salary. That is intolerable. Structural improvement is necessary if we are to protect and preserve Medicare in the long run. We can and will protect and save Medicare if we act now.

I will be taking time over the next several days to come back to the floor to continue this discussion of how best this Congress is to save Medicare.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I ask unanimous consent I be allowed to speak for a period of time not to exceed 15 minutes as if in morning business.

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

Mr. BRYAN. I thank the Chair.

WELFARE REFORM

Mr. BRYAN. Mr. President, we are about to be engaged in a debate in this Chamber on welfare reform, an issue which has failed the recipients, has failed the American taxpayer, and on which I think men and women of good will on both sides of the political aisle agree we must undertake some major structural reforms. I think that we can do so in a bipartisan fashion.

It was in this context during the recent April recess that I spent an entire morning at one of the busiest welfare offices in Las Vegas, the West Owens District Welfare Office. May I say, Mr. President, to my colleagues, it was an educational opportunity, and if my colleagues have not previously done so, I would urge each of them to avail themselves of this opportunity.

I first sat in on a welfare eligibility interview, a process that lasts for approximately 1 hour. I observed this process from the beginning to its conclusion.

In the Owens Welfare Office, eligibility workers sit in very small interview rooms, somewhat affectionately referred to as the ''chutes.'' The eligibility worker has a desk literally surrounded on all sides with shelves full of various forms and regulations that deal with the nearly 20 different programs a person in need of welfare assistance may be eligible to receive. The client comes into the interview room from the reception area, sits across from the eligibility worker's desk, and the interview process begins.

Now the interview I observed, contrary to some of the stereotypical images that are often projected, was of a young Caucasian woman. She was married, living with her husband and two children. Her situation represents the prototype of the kind of problem that many people in America face who seek welfare assistance.

She and her husband had moved to Nevada from California, and currently both are working. Although their jobs pay above the minimum wage, they are still unable to provide for their family of four. Her employer structures her workweek so that her hours do not exceed 20 hours per week, and so she is ineligible for the medical benefits which her employer pays for those who work full time. One of her children has a preexisting medical condition, so medical care is a necessity. Her husband's employer provides no medical insurance. She also needs to pay for the cost of child care, and her child care cost is more than 50 percent of the gross hourly wage that she makes each hour.

Following this eligibility determination interview, I sat down to a very frank discussion with eligibility workers concerning the areas of the welfare system that they believe need reforming.

Let me say, Mr. President, I had anticipated the thrust of the comments would be that you all in the Congress need to provide more money; the system works. In effect, I thought I might be hearing a defense of the status quo, because these are eligibility workers, the committed and dedicated people who choose, in terms of their own educational background and their work experience, to provide care to others. So these are highly compassionate, sensitive people who see the travail of life before them every day.

To my great surprise, they are as enraged and as frustrated and as angry as are the American people and each of us who, as Members of Congress, have had a chance to look at this system that has failed so abysmally. Their suggestions and comments to us, I think, are extremely worthwhile for us to consider. They are the people that are on the front lines. They know the nuances of the system. They know how the system is ripped off. And they also know of its shortcomings in providing help to those who all of us in this body would acknowledge are in genuine need of help.

As one of the underpinnings of the welfare system, I think all of us can agree, whether we position ourselves in the political spectrum to the left of center, to the right of center, or in the middle, that we want a system that encourages people to work.

Most of us in America have a work ethic that is part of our background. It is part of what our parents shared with us. And, for whatever measure of success we may have achieved in life, it is the presence of that work ethic that contributed to that success.

But a person who is on welfare, who gets a job, who achieves that first rung on the job ladder, oftentimes is confronted with a horrific choice. Immediately that individual may be cut off from all medical care, all child care assistance, and that individual may, in fact, find herself in a more disadvantageous position than before she attained employment.

That part of our system, it seems to me, ought to be fundamentally changed. We ought to be encouraging and rewarding those people like the young applicant whose interview I observed, who is going out, getting a job, and trying to help herself and her family.

Our present system provides all of the disincentives by not providing transitional help for her, so she can get a little better job, that pays a little bit more, so that she is able to provide for herself and her family. That, it seems to me, ought to be one of the structural incentives that any welfare reform ought to encourage.

The welfare system is replete with conflicts, both indefensible and maddening. It is the sort of thing that encourages the American public to react as it does when the word ''welfare'' is mentioned.

I would like to talk about a few of those, if I may, Mr. President.

One of the key policy problem areas the eligibility workers brought to my attention is how the term ''household'' is defined for determining the eligibility of individuals living together at one residence for different welfare assistance programs.

One of the most egregious examples of how policy and effect conflict is the Food Stamp Program definition of ''household.'' Assume with me for the moment that two families have the same number of family members, and the same income. Applying the ''household'' definition can mean a family where everyone is a legal citizen is ineligible for food stamps, while a similar family with one member, who is an illegal alien, is eligible for such assistance.

Let me be more specific.

Let us assume family A and family B both have a total monthly household income of $1,200, and each parent individually earns $600. Family A's two working parents are both legal citizens. Family B also has two working parents, but one is an illegal alien.

Under the present system, in determining eligibility, the eligibility worker looks at the household members, and finds two working parents who are legal citizens. The worker must count family A's full $1,200 monthly income. Since family A's total household income is more than the monthly gross income allowed for food stamp eligibility, which is $1,066 for a two-person family, family A is ineligible.

However, with family B, the eligibility worker looks at the household members, and does not count the $600 income from the illegal alien parent. Only the half of family B's gross monthly household income earned by the legal citizen parent is counted. Family B's gross monthly household income is only $600 a month, well under the maximum allowed.

Family B, with the illegal alien, receives food stamp assistance. Although technically the illegal alien member of family B does not directly receive food stamps, it is the member's presence as part of the household that allows for this incongruous and indefensible result.

Why, I would ask, are we penalizing the two-parent working family whose members are legal citizens by denying eligibility for food stamp assistance, while allowing a two-parent working family with an illegal alien family member to receive assistance? Would it not be fairer to determine a family's eligibility for assistance by looking at the total income of the household rather than by who is in the household?

That is whether the individual parent is illegal or a legal alien. This is a situation that must be corrected.

On the other hand, the Food Stamp Program specifically requires welfare offices to report any illegal alien who tries to apply for benefits. However, there is no similar requirement for the Aid to Families with Dependent Children Program. Why? It makes no sense as a matter of policy.

Throughout this country, people are justifiably angry about illegal aliens who have access to our Nation's welfare system. We can and we ought to, at the very least, require all of our welfare assistance programs to provide information and to report illegal aliens to the Immigration Service. We have all heard from INS that there is simply not enough staff and funding available to investigate every alleged illegal alien, and that priority decisions must, by necessity, be made. But we are creating an atmosphere where those who test the welfare system feel relatively safe in attempting to defraud it. If we do not want illegal aliens to receive benefits they are not entitled to, we need to ensure adequate resources are available to prevent it from occurring.

Another area of policy conflict occurs with young teenage parents. We require young teenage parents under 20 years of age to participate in education and training programs or lose their eligibility for AFDC assistance. But once that same young parent turns 20, she continues to be eligible for AFDC benefits, while no longer being required to participate in any education or training program or to work.

So what kind of an incentive do we create for those mothers not to participate in education or job training programs and not to work?

Millions of American women in this country are single heads of households who get up every morning, get their kids ready to go to school, get themselves out in the job force, and yet we provide no assistance for these women. And the welfare system, as it is currently structured, provides assistance for those who neither seek employment nor participate in job training programs. Again, this is a policy conflict we ought to correct.

The eligibility workers also pointed out to me the difference in treatment under the Food Stamp Program between disabled seniors living on limited incomes and homeless people. Disabled seniors who usually have a house many times are eligible to receive only $10 a month in food stamp benefits. I was told by one eligibility worker that she actually sees seniors with cases of obvious malnutrition, something she said would just break your heart, but she is unable to provide more than $10 under the system the way it is currently structured.

On the other hand, a homeless person gets expedited service, has benefits available in 5 days, and is able to get the full benefit of $115 a month. It seems to me there is a dichotomy here that is irreconcilable. In the one instance, everyone agrees the deserving senior, who currently gets only $10 a month, desperately needs more to survive, and yet she is not provided that assistance.

Another example of a policy and an effect in conflict occurs when an unmarried man and woman live together. Each person is considered separately to determine eligibility for food stamp benefits, even if the woman is pregnant with the man's child. It is only after their baby is born that the man and woman are considered to have a child in common, and are then treated as a married couple, and are no longer eligible for separate individual benefits.

Also, couples who were married, who divorce, but continue to live together can be certified as separate persons for food stamps as long as they do not have a child in common. We ought to be encouraging, as a matter of public policy, people to be married and to raise their children as a family. Allowing this aberration—two people living together, previously married, divorced, and now able to receive welfare assistance—clearly is a disincentive we must correct.

Intentional welfare fraud can also result in a conflict between policy and effect. If a person receiving aid to families with dependent children benefits is discovered to have committed an intentional welfare fraud, the fraud sanction is to reduce benefits by up to 10 percent or to eliminate the AFDC benefit. The same family may then be eligible for more food stamps and a higher housing allowance because of the reduced AFDC cash benefit, a benefit which was reduced as a consequence of their intentional fraud perpetrated upon the system.

That creates the situation in which there is essentially no penalty for this person, because the reduction in AFDC cash benefits is likely to be offset by increases in benefits from other programs.

Under the Food Stamp Program, the penalty for fraud is either a 10- or 20-percent reduction in benefits. However, the reality of this situation is when someone commits a fraud, the welfare system basically ends up paying such people to pay the system back for the previous fraud from one program, by increasing that person's benefits from other programs. It makes absolutely no sense at all, Mr. President.

I have long been a supporter of strengthening our ability to enforce the payment of child support from irresponsible parents. It came as a surprise to me to learn that the Food Stamp Program, that I have long supported as an essential part of our safety net program, does not require—does not require—its recipients to participate in efforts to try to retrieve unpaid child support payments. All Federal welfare assistance programs must require its recipients to cooperate in State and Federal efforts to recover outstanding child support payments. We need to use every available option to bring delinquent parents back to the reality of their financial responsibility for their children.

The eligibility workers also brought to the table suggestions for ways to help eliminate these policy conflicts.

First, they suggest more standardization of eligibility requirements for all welfare programs. This would particularly help to prevent a fraud penalty reduction in benefits in one welfare program resulting in an increase in benefit eligibility in other programs, the net effect of which is to provide no net income loss or penalty for the individuals seeking to defraud the system.

They also suggest the penalty percentage reduction be made more flexible to allow for differences in the degree of frauds. Additionally, the eligibility workers would like to see fraud penalties follow the person. By that, Mr. President, we mean that under the current system, an individual who is identified as having perpetrated a fraud in one State can collect and apply for benefits in another State.

If a person commits a welfare program fraud in one State, and then moves to another State, the person's fraud penalty from the first State should follow the person to the second State for collection.

Also, all welfare programs should require their recipients to participate in

State and Federal efforts to collect delinquent child support. As I stated before, we need to avail ourselves of all options available to ensure child support payment is enforced. When I reintroduced my child support enforcement legislation, my new bill will provide all welfare program recipients cooperate in child support enforcement efforts, as a condition of their receipt of assistance.

I want to reemphasize how much each of us can learn from the practical knowledge these frontline eligibility workers have about how the welfare system works, where the problems are, and what the possible solutions are to address them. They are not defenders of the welfare system status quo. They see both the positive and the negatives of the current welfare system, and they are just as frustrated with the welfare system as are the public and Members of Congress.

The welfare system must be substantially changed, and on that we can all agree. We can all agree too that there will always be people who will need the safety net welfare assistance provides at some time in their lives, and we must ensure the net is there for them.

But as the Senate begins its deliberations on welfare reform, we need to heed the lessons learned by these eligibility workers. As we make the necessary changes, let us always remember to work to ensure the current policy conflicts are not carried forward. Let us not create more unintended consequences when we change the system.

I yield the floor.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Colorado.

Mr. BROWN. Parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is amendment No. 599.

Mr. BROWN. Mr. President, I rise to advocate the adoption of the Brown amendment No. 599 that proposes to restore the sanctions against frivolous actions of the Federal Rules of Civil Procedure.

Most Americans would be shocked, I believe, to find that the Congress has acted to gut the restrictions against bringing frivolous legal action. Many will ask in this Chamber, ''How is that possible? Who in this Chamber would possibly vote or even advocate doing away with restrictions on bringing frivolous actions in Federal courts?'' And the answer is that the previous Congress did it through neglect. The last Congress took what I believe most Americans will find to be an absolutely outrageous act by neglect, by refusing to consider the proposed changes to the Federal Rules of Civil Procedure. Proposed changes in the Federal Rules of Civil Procedure become effective automatically if Congress fails to act, and that is what Congress did—fail to even consider them.

There literally was not a bill brought up in the Judiciary Committee which allowed Congress to voice its concern about the proposed changes to the Federal Rules of Civil Procedure.

To make matters worse, the changes to rule 11 eliminated the deterrence against frivolous lawsuits. Let me quote the dissent from the Supreme Court opinion with regard to this matter:

> It takes no expert to know that a measure which eliminates, rather than strengthens, a deterrent to frivolous litigation is not what the times demand.

Mr. President, that is true, and what we attempt to do with this amendment is simply restore to the Federal Rules of Civil Procedure a form of sanctions and admonitions against bringing frivolous litigation. I intend to ask for a record vote on this, and it will be an opportunity for Members of the Senate to go on record: Do they favor our Federal courts being used to bring frivolous action, groundless action, or do they oppose it? It is a very clear vote. It is a very clear amendment. It is not complicated.

I think a legitimate question at this point is how in the world could a change of this kind ever possibly have taken place without someone standing up and calling the attention of this body to it and making sure it did not happen?

Let me address that because I think it is a relevant question and one to which Members deserve an answer.

In transmitting the changes to the Federal Rules of Civil Procedure, Chief Justice Rehnquist, in his letter of April 22, 1993, said the following:

> This transmittal does not necessarily indicate that the Court itself would have proposed these amendments in the form submitted.

For those in this Chamber who think the fact this was transmitted to us by the Supreme Court means they agreed with it, they need to take a look at the very transmittal document itself. The Chief Justice makes it clear that this does not involve, or necessarily indicate, the Court favors these changes.

Mr. President, I think it is important to note that none other than Justice White issued a separate statement with regard to that, and I intend to go into his statements voicing his concern about the procedure, and the dissent was filed by Justices Scalia in which Justice Thomas joined and Justice Souter joined as well.

I might mention that dissents with regard to changes in civil procedure are very unusual, and it is an exceptional case in which anyone ever dissents because, frankly, as Justice White points out, it is their view that there is some constraint on the Court through questions of constitutionality and of what role they should play in this activity, which is basically a form of legislation.

Let me quote Justice White because I think he explains this process in a clear fashion:

> 28 U.S.C. Section 2072 empowers the Supreme Court to prescribe general rules of practice and procedure and rules of evidence for cases in the Federal courts, including proceedings before magistrates and the court of appeals. But the Court does not itself draft and initially propose these rules. Section 2073 directs the Judicial Conference to prescribe the procedures for proposing rules mentioned in section 2072. The Conference has been authorized to appoint committees to propose such rules. These rules advisory committees are to be made up of members of the professional bar and trial and appellate judges. The Conference is also to appoint a standing committee on rules of practice and evidence to review recommendations of the advisory committees and to recommend to the Conference such rules and amendments to those rules as may be necessary to maintain consistency and otherwise promote the interest of justice. Any rules approved by the Conference were transmitted to the Supreme Court which, in turn, transmits any rules prescribed pursuant to section 2072 to the Congress.

Mr. President, what he has outlined quite clearly is that these changes in the rules, while transmitted through the Supreme Court, do not necessarily represent the views of the Court—a view echoed by the Chief Justice.

Further, Justice White states:

> The Justices have hardly ever refused to transmit the rules submitted by the Judicial Conference. And the fact that aside from Justices Black and Douglas it has been quite rare for any Justice to dissent from transmitting such rules suggests that a sizable majority of the 21 justices who sat during this period concluded that Congress intended them to have a rather limited role in the rulemaking process. The vast majority, including myself, obviously have not explicitly subscribed to the Black-Douglas view that many of the rules proposed dealt with substantive matters the Constitution reserved to Congress, and that in any event were prohibited by 2072 in injunctions against abridging, enlarging, or modifying substantive rights.

Mr. President, I mention this because I think it is critical as Members consider this subject to ask themselves whether or not the changes that went into effect automatically carried with them an aura that we should respect and honor and not question or even review. Justice White concludes in his opinion that was transmitted stating this:

> In conclusion, I suggest it would be a mistake for the bench, the bar, or the Congress, to assume that we are duplicating the functions performed by the standing committee of the Judicial Conference with respect to changes in the various rules which come to us for transmittal.

Mr. President, I believe the record is quite clear. It is a mistake for anyone to come before this body and to suggest that the fact that the Supreme Court transmitted these proposed rules changes means that they think they are good rules changes. I think the statement of Justice White, and particularly the dissent of the three Justices, which is almost unprecedented,