

market with duty-free ceramic tiles that apparently had been superficially restyled or mislabeled.

In light of these factors, the U.S. industry has been recognized by successive Congresses and administrations as import-sensitive dating back to the Dillon and Kennedy Rounds of the General Agreement on Tariffs and Trade (GATT). Yet during this same period, the American ceramic tile industry has been forced to defend itself from over a dozen petitions filed by various designated GSP-eligible countries seeking duty-free treatment for their ceramic tile sent into this market.

The domestic ceramic tile industry has been fortunate, to date, because both the USTR and the International Trade Commission have recognized the import-sensitivity of the U.S. market and have denied these repeated petitions. If, however, just one petitioning nation ever succeeds in gaining GSP benefits for ceramic tile, then all GSP beneficiary countries will be entitled to similar treatment. This could eliminate many American tile jobs and devastate the domestic industry. Therefore, it is my strong belief that a proven import sensitive and already import-dominated product, such as ceramic tile, should not continually be subjected to defending against repeated duty-free petitions, but should be exempted from the GSP program.

Mr. President, I would like to address one final trade issue. It is not a part of this bill but it does relate to GSP, because the problem I will discuss is a result of an inequitable tax policy put in place by some countries that are major beneficiaries of the GSP program. This tax policy, known as a differential export tax scheme or DET, is used to confer an unfair competitive advantage for these countries' exports of agricultural products, particularly soybean meal and oil, to the detriment of U.S. producers, processors, and exporters.

Mr. President, I'll briefly describe how this differential export tax scheme operates. Under a DET system, exports of a raw commodity, in this case soybeans, are taxed at a higher rate than exports of the processed derivatives of that commodity, soybean meal and oil. Since this increased tax discourages the export of soybeans, the oilseed crushers in those countries are able to purchase soybeans from their domestic growers at prices well below the world market prices paid by U.S. oilseed crushers. Because they pay a lower cost for their raw materials, these foreign crushers are then able to undercut U.S. processors in the world market for processed soybean products.

For example, the State of Rio Grande do Sul in Brazil recently changed its tax structure so that a tax of 13 percent is levied on all exports of raw soybeans, while the export tax on soybean meal and oil is only 5 percent. At current market values, this gives the Brazilian crushers an additional crushing margin of about \$22 per ton. This is essentially an indirect subsidy for these

crushers and significantly distorts free trade. I assume this practice would be subject to World Trade Organization rules if the subsidy were provided as a direct export subsidy.

The consequence of this type of practice is a drastic loss in the U.S. share of world export markets for processed soybean products, and artificial downward pressure on world price levels for these same products. This is not acceptable. As you know Mr. President, Iowa is, in any given year, either the first or second leading soybean producing state in the nation. This is a distinction we share with our neighbors in Illinois. So this unfair trade practice is of great concern to Iowa farmers and processors, and those in other states as well.

I understand that progress is being made on resolving this issue, but more work must be done. In the case of Brazil, it is my understanding that the Brazilian federal government strongly supports reform of this DET system, and in fact is considering the complete elimination of all taxes levied upon exports of agricultural products, both raw and processed. In the coming weeks and months, I will be closely watching how Brazil, Argentina, and other countries reform these practices. However, I am serving notice today that if these practices are allowed to continue, I will consider pursuing appropriate legislative or administrative measures to counter them.

Mr. President, I yield the floor.

A VICTORY FOR WORKING AMERICANS

Mr. KERRY. Mr. President, today—finally—we are raising the minimum wage and putting families first. We have won a major victory for every American who values work and believes in fairness. It is a victory for common sense over ideology, for bipartisanship over saber rattling.

It is a victory for 290,000 hard-working families in Massachusetts who are playing by the rules and struggling to make ends meet—who have fallen behind in the last 20 years and now have a chance to do better, to keep up, and give their children a chance at a decent life. It is a victory for the millions of Americans who were trying to make a living and raise a family on \$4.25 an hour and now will get \$1800 more a year—enough to buy groceries for 7 months.

Raising the minimum wage is a work force enhancement program and a family protection program for an investment of 90 cents an hour—a move which will strengthen the fabric of the American community and narrow the widening gap in the workforce.

For the first time in years, we are giving workers a raise. This is a down payment on our commitment to make sure that everyone in this economy can participate—that everyone can earn more, learn more, provide more for their families, and be part of an econ-

omy that works for families—that values the dignity of work for those at the bottom as well as the top.

Mr. President, raising the minimum wage is, in fact, the most basic welfare reform measure we could enact. It helps make work pay for those who will be returning to the workforce. It will allow working mothers who come off welfare to have a fighting chance to put food on the table for their children and still find enough to pay the rent.

In the last few months we have heard a lot of talk from many of my Republican colleagues that welfare recipients need to learn the dignity of work, and we would agree with them and we have passed a welfare reform package incorporating that concept. But I also believe that the dignity of a liveable minimum wage is that, as a society, we believe that if you are willing to work hard, you deserve the dignity of earning enough to at least pull yourself out of poverty and put food on the table and a roof over your children's heads.

Mr. President, this is the beginning of a new era of worker fairness, of giving a raise to those who need it most, and taking one more step toward relieving the insecurities of the American worker. There is no greater gift to a young mother who is trying to make ends meet, trying to pay the rent, buy food, pay child care, pay for health care, and save for the future than to say to her that we know how difficult the struggle is and we, as a nation, as a Congress, as a people are willing to do what we can to help.

Today, Mr. President, with this vote to increase the minimum wage and give workers a raise, we have sent a message to America that we have rejected the extreme, hard line policies of the ideological warriors who believe that the bottom line is the only line, and that if those at the top earn more then those at the bottom will be better off. We have sent a message, instead, that we are, indeed, a common sense, pro-family community that believes in fairness and in a fair wage for a day's work. And we have sent a message that we believe that if you increase the intrinsic value of work you decrease the emotional cost of welfare, and the emotional toll that hopelessness and fear take on hard working mothers and families.

Mr. President, we have done the right thing. Some have fought it. Some have argued vehemently against it. Some have found arguments to try to stop it. But in the end, we have struck an important blow for fairness, for work, for families; and in so doing we have brought two words back into the lexicon of the 104th Congress and they are "compassion" and "community". Increasing the minimum wage means that we understand that we are all in this together and that we care. That, Mr. President, is a victory for the principles for which I have fought during my tenure here, and for which I will continue to fight in the future.

Mr. LAUTENBERG. Mr. President, I rise to speak in support of the increase in the minimum wage.

Mr. President, 5 years is a long time to go without a raise. Senators and Representatives do not go that long. Nor do corporate executives, or even most average working people.

And neither should those who earn the minimum wage.

Mr. President, the increase in the minimum wage that we will pass today will be the first raise in 5 years for close to 12 million American workers. It's about time.

Mr. President, there's a lot of mythology about just who these minimum wage workers are.

Contrary to those prevailing myths, Mr. President, most minimum wage workers are not rich suburban teenagers who take a job for extra spending money.

The fact is—two-thirds of minimum wage workers are adults; 58 percent are women; 40 percent are the sole breadwinners for their families; and of the 25 percent that are teenagers, over half come from families with below-average income.

Mr. President, fundamental fairness dictates that a person who gets up every day, goes to work, 40 hours a week, 52 weeks a year, should earn a living wage.

And yet, a minimum wage worker who works 40-hours per week, every single week of the year, doesn't even earn enough to reach the poverty line. That's wrong. And we have an obligation to do something about it.

Mr. President, the minimum wage increase in this bill will lift 300,000 American families out of poverty. And that includes 100,000 children.

Mr. President, an increase in the minimum wage to \$5.15 per hour means an increase in income of \$1,800 per year for about 10 million workers.

That's enough to pay for 7 months of groceries, or 4 months of rent, or even 1 year of tuition at a 2-year college.

It's tremendously important for millions of American families.

In my home State of New Jersey, the minimum wage is currently \$5.05 an hour, above the national minimum, and only 10 cents below this new minimum of \$5.15.

In my State, this wage increase will amount to \$4 per week for a minimum wage worker. You might think that a 10-cent-an-hour raise wouldn't be a big deal. Well, you would be wrong.

In communities and families all over New Jersey, and around this country, even such a small increase in income could mean the difference between caring for children, and having them go hungry.

Four dollars buys 2 more gallons of milk, or 2 more loaves of bread, or 8 more boxes of spaghetti.

To millions of American families, even just a few dollars more per week is a lot of money.

Mr. President, people who work hard and play by the rules should be able to

provide for themselves, and their families.

The best way to encourage and honor the work ethic so important to our economic future is to ensure that even those at the bottom earn a living wage.

So, Mr. President, I urge my colleagues to support working Americans and to support this bill. It's the right thing to do. And it's long overdue.

Mr. HARKIN. Mr. President, I supported the health insurance conference agreement. I want to speak a few minutes about some of the very good and some very problematic provisions in this agreement. I want to congratulate Senator KENNEDY and Senator KASSEBAUM and others for their hard work and perseverance.

A number of the provisions of this bill follow the framework of a proposal I put forth in the last Congress. In 1994, I offered what I called a downpayment plan that would have made health insurance affordable for every child in America, provided for increased portability and other insurance reforms, full tax deductibility of health insurance costs for the self-employed and a clampdown on health care fraud, waste, and abuse. I am pleased that provisions similar to several of these items are included in this conference report.

I am very pleased that this legislation prohibits group and individual health plans from establishing eligibility, continuation, or enrollment requirements based on genetic information. I offered an amendment on this issue during committee consideration of S. 1028 and am pleased that it is included in the conference bill.

I believe this is a very important provision that will become even more important as the availability and use of genetic tests grows in the coming years. Genetic information should be used to help people stay healthy and should not be used to put a person at a disadvantage when it comes to health insurance.

While this legislation still leaves serious flaws in our health care system, it represents an important step toward reforming health care and injecting some fairness and common sense into the system.

The portability provision in the bill would provide some much-needed relief for many Americans. Provisions to gradually raise the percentage of health insurance costs that farmers and other self-employed can deduct from their taxes from 30 to 80 percent over the next 10 years, would provide greater relief, if not equity, with larger businesses.

Mr. President, the portability provisions in the bill are particularly important. Americans should not have to worry about facing preexisting condition exclusions if they get sick, change jobs, or lose their job.

This health insurance bill will provide many American families with added security and choices.

The provisions in the legislation related to preexisting conditions are im-

portant and add some common sense to the current health insurance market. The bill limits the ability of insurers to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusions can be imposed as long as there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The preexisting condition provisions will help real people who have already experienced an illness and want to switch insurers or change jobs.

For example, a father from Iowa City called my office about his daughter who has a chronic health condition and will graduate from college this spring. He was worried that when she graduates and is no longer covered under his health insurance policy she will not be able to find insurance coverage for her chronic health condition.

Because the Health Insurance Reform Act would require insurers to credit prior insurance coverage, his daughter can move to another health insurance plan without being denied coverage for her preexisting condition.

The portability provision in the bill will help with so-called job lock. Workers who want to change jobs for higher wages or advance their careers often have to pass up opportunities because it might mean losing health coverage. These provisions will provide greater security for Americans currently covered under group health plans.

I've heard from Iowans who have had to pass up new job offers or forgo starting their own small business because they or someone in their family has a preexisting condition. Workers with a sick child are forced to pass up career opportunities because their new insurance may not cover a preexisting condition for 6 months or more.

These families have played by the rules and have been continuously insured—they deserve to know that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition because they change jobs.

But, I do want to express my concern about some of the comments that are being made on both sides of the aisle about this bill.

In today's edition of the Washington Post, House Speaker NEWT GINGRICH is quoted as saying "it means guaranteed health insurance for everyone who's in the system."

Mr. President, this bill is an important step forward, but it in no way means guaranteed health insurance for people now in the system. We should not overpromise or oversell this bill. American workers still face the possibility that their employer will reduce their health insurance or drop coverage altogether.

Workers still face the possibility that coverage for their children will be dropped. In fact, the number of children covered by employment-based

health insurance has been decreasing and over 9 million children have no health insurance.

If you lose your job you still face the high costs of health insurance—certainly many people who have just lost their job can't afford health insurance premiums. If you get sick, lose your job, and can't afford health insurance premiums you are still out of luck under this bill.

And, Mr. President, today if a worker switches jobs their next employer may or may not offer health care coverage. The bill before us today does not change this situation. Companies can also continue to eliminate health care coverage for retirees.

So, Mr. President, this bill does not guarantee health insurance. It is an important step forward and it should be passed.

We should not let the perfect be the enemy of the good, but we also shouldn't lead Americans to believe it does more than it really does.

While there are many positive things in this bill that merit its enactment, Mr. President, there are several provisions that I believe would substantially undermine our efforts to combat fraud, waste, and abuse in Medicare and other health programs. Our two lead agencies in combating health care fraud and abuse, the Department of Justice and the office of inspector general of the Department of Health and Human Services, have also raised serious concerns with different provisions in this conference report.

First, the conference agreement includes language from the House bill that significantly raises the burden of proof on the Government to prove fraud and impose civil monetary penalties. Let me read from a letter that June Gibbs Brown, HHS inspector general wrote to me recently about this provision.

I ask unanimous consent that the relevant portion of the letter be included at this point.

LETTER FROM JUNE GIBBS BROWN, INSPECTOR GENERAL

September 29, 1995.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

Re H.R. 2389: "Safeguarding Medicare Integrity Act of 1995"

DEAR SENATOR HARKIN: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the "Medicare Preservation Act." We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about \$18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R.

2389, and we support them. For example, we support:

"a voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from *qui tam* suits under the False Claims Act (but not waiver by the Secretary of sanctions);

"minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

"increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud."

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based status, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the "knows or should know" standard for the mental element of the offense, Congress chose a standard which is well defined in the Restatement of Torts, Second, Section 12. The term "should know" places a duty on health care providers to use "reasonable diligence" to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the "should know" standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term "should know" in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with "deliberate ignorance" of false claims or if they act with "reckless disregard" of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use "reasonable diligence" to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which may be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far pref-

erable not to make any changes to the CMP statutes at this time.

MAKING THE ANTI-KICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT "THE SIGNIFICANT" INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid \$379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc. paid \$161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

Let me repeat, the IG says this provision will "significantly curtail enforcement of these sanctions." Mr. President, this provision has no business in this conference report and flies in the face of the bill's section title "Preventing Health Care Fraud and Abuse."

Along with other exemptions provided in the bill, this change will cost taxpayers \$200 million, according to the Congressional Budget Office [CBO].

The conference agreement also includes a provision from the House bill requiring the IG to provide advisory opinions to the public on the Medicare anti-kickback statute. The Attorney General and the HHS strongly oppose this provision. In fact, the Attorney General in a June 6, 1996 to then Majority Leader Dole and Speaker GINGRICH said:

This is an unprecedented and unwise requirement that would severely undermine our law enforcement efforts relating to health care fraud. The HHS IG said in her letter to me that similar provisions would "severely hamper the Government's ability to prosecute health care fraud."

She goes on to say:

Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Mr. President, I strongly support the concept of providing the public and health care providers guidance on complying with Medicare law. The government does issue advisory opinions and other guidance and it should be provided the resources to do more. But law enforcement should not be forced to

issue information that it feels will undermine compliance with anti-kick-back laws.

The Attorney General and IG have said that these requirements are so damaging to their ability to prosecute fraud because they would require law enforcement to issue opinions on intent based statutes. Because of the inherently subjective nature of intent, they believe it would be impossible for them to determine intent based solely upon a written submission from the requestor. They point out that it does not make sense for a requestor to ask the Government to determine the requestor's own intent.

The Congressional Budget Office has scored this advisory opinion provision as costing taxpayers \$280 million over the next 7 years. They recognize the obvious, that this provision will result in fewer successful prosecutions of health care fraud.

Mr. President, there are a number of provisions in the conference agreement that would, taken alone, improve our fight against Medicare fraud, waste, and abuse—provisions I have long advocated. The bill creates a mandatory source of funding for the IG, the FBI, and other law enforcement agencies.

Their efforts return many times their costs in savings. In order to make this change significant, though, we can't simply eliminate existing discretionary funding for these activities in the appropriations bill.

The bill also requires some steps to be taken to encourage and assist Medicare beneficiaries in identifying and reporting fraud and abuse. Significant additional steps are needed to assure that seniors really have the tools they need to fully participate in this important effort.

So, Mr. President, this bill is a mixed bag. I will support it because it provides important new protections to working Americans and tax relief for farmers and the self-employed. However, I will actively work to have the provisions which hamper our efforts to combat health care fraud and abuse removed from the books.

AID TO SMALL BUSINESSES

Mr. KERRY. Mr. President, this is a good day for hard-working Americans and small business owners across the Commonwealth of Massachusetts. The final passage of the Small Business Job Protection Act will stoke the engine of job growth in this country and will help further the current economic expansion.

Just 2 days ago, we learned that, in the second quarter of 1996, our national economy posted a robust 4.2 percent growth rate. This buoyant growth figure is just the latest indication that the Clinton economic plan which the Congress passed in 1993 without one single Republican vote is benefiting hard-working Americans. We have unprecedented low interest rates and subdued inflation and unemployment levels. In fact, the Clinton plan has created more than 10 million jobs since its enactment.

Mr. President, the Clinton plan reduced the deficit from a record-high \$290 billion in 1992 to a projected \$117 billion this year. That is a 60-percent reduction of the deficit in 4 years, Mr. President. But some Members on the other side of the aisle seem to forget that deficit reduction is, in and of itself, not an economic policy. Cutting wasteful spending in order to keep interest rates low while protecting programs and services which stimulate growth and create jobs is an economic policy. It is an economic plan. It is, in fact, the core of the Clinton plan, and I am pleased to have helped shape this plan.

Just 2 weeks ago, the Chairman of the Federal Reserve, Alan Greenspan told me that our economy has not looked this sanguine in 3 years. But I reminded him during our Banking Committee hearing that all Americans have not yet felt the benefits of the Clinton plan. Accordingly, I introduced the American Family Income and Economic Security Act this year. Several provisions of my 20-point plan will become law when the President signs the conference report before us.

One of these provisions is raising the minimum wage to \$5.15 per hour, which I will address in a separate statement later this afternoon.

Two other provisions of my bill which are echoed in the Small Business Job Protection Act are the extension of the credit for research and experimentation and the deduction for employer-provided educational assistance.

This bill will extend the R&E Tax Credit, sometimes called the Research and Development Tax Credit, until May 1997. Mr. President, for years, I have fought to make this credit permanent; it is one of the most important tax provisions for our high-technology, high-wage, job-creating industries, many of which are found in my home State. I am disappointed this bill does not make the credit permanent or retroactive; however, I am pleased the Congress is once again acknowledging the significance of the credit.

The bill will also extend the exclusion, up to \$5,250, for employer-provided educational assistance through May 1997. This provision gives many Americans an opportunity to further their education while working. It allows them to upgrade their skills in order to survive and compete in the changing global economy.

These provisions are the logical complements to the Clinton economic plan. They will help more working Americans to enjoy the benefits of the current robust economic growth. I will continue to fight for other provisions of my American Family Income and Economic Security, like allowing more Americans to save for their retirement through IRA's, safeguarding pension plans from corporate raiders, reducing capital gains tax rates for investors in targeted, high-technology industries, furthering training programs and expanding stock option programs.

Mr. President, there is one last provision of the small business job protection bill of which I am extremely proud. For almost 8 years, hard-working owners of fishing vessels in New Bedford, MA, have been subject to an Internal Revenue Service ruling that would have resulted in approximately \$11 million in penalties. This situation arose from an IRS misinterpretation of the Tax Code as applied to crewmembers on small fishing vessels. The IRS' interpretation and assessment nearly devastated the fishing families in southeastern Massachusetts—a region struggling with the departure of the textile industry and the demise of the fishery. I am pleased that this bill includes a correction to this wrong-headed interpretation. This action is providing relief for four fishing vessels in New Bedford—*F/V Edgartown*, *F/V Nordic Pride*, *F/V Lady J*, *F/V Steel*—by rendering moot a court action against them.

Life on the seas requires fishermen to be ruggedly independent individuals. Fishing boat operations reflect this independence in that they are fundamentally small business operations with crews that typically vary from trip to trip, with each crewmember acting as a free agent. Recognizing that there was a unique worker arrangement on fishing vessels, Congress amended the Tax Code in 1976 to clarify the employment status of crewmembers as self-employed and required the self-employed crewmembers to be compensated solely with a share of the catch.

It is common practice on fishing boats around the country to provide a small cash payment called a *pers* to the cook, first mate and engineer in recognition of additional duties they perform at sea. These *pers* represent only 1 to 5 percent of the total compensation which amounts to approximately \$500 annually on a \$30,000 income.

This bill will allow the *pers* payments—which are essentially calculated as a share of the catch—without jeopardizing the self-employment status of crewmembers. Let me emphasize, Mr. President, that the boat owners believed they complied with the new tax laws and regulations, and in fact they did comply with the law as Congress intended it to be applied to small fishing vessels.

With my colleagues from Massachusetts, Senator KENNEDY and Congressman FRANK, I tried to remedy this situation for 7 years. We appealed to the Treasury Department and the Internal Revenue Service, and introduced legislation that was vetoed twice by President Bush. Today, I am pleased that this issue will be resolved as soon as President Clinton signs this bill.

Mr. President, this has been a long and difficult struggle to provide relief for the fishing families of New Bedford. Like the hard-working people of southeastern Massachusetts, small business owners and American workers will enjoy the benefits of this bill. I am

pleased that the Senate will speak with a strong bipartisan voice to raise the minimum wage, to provide tax incentives for small businesses and, especially, to assist the families of New Bedford, MA.

I yield the floor.

EMPLOYER SECURITIES IN ERISA PLANS

Mr. BREAUX. Mr. President, I rise today to address the full Senate and the distinguished chairman of our Finance Committee, Senator ROTH. On June 5, I suggested to the Finance Committee that it adopt a provision that would permit subchapter S corporations to sponsor ESOP's, or employee stock ownership plans.

When the precise language of my proposal was published as section 1316 of H.R. 3448, I was disappointed to read that some of the special tax benefits that currently are available with respect to ESOP's would not be available in the case of an ESOP that acquires and holds subchapter S corporation stock.

I would like to note that the provision in the bill before us related to employer securities and sub S ERISA plans is not to take effect until January 1, 1998. Between now and then, I will review how we can make it possible for subchapter S corporations to avail themselves of the special ESOP tax benefits, which will encourage greater use of this provision.

After this review, I hope to be able to offer reasonable alterations to H.R. 3448 that will expand our policy of promoting employee ownership through ESOP's.

Mr. ROTH. Mr. President, I appreciate the comments of the Senator from Louisiana and look forward to reviewing any thinking he may have for future legislation on this matter.

DISCRIMINATION UNDER NEW IRS SECTION 936

Mr. GRAMS. Mr. President, I am very concerned about regulations that were just issued by the IRS in May regarding the section 936 possession tax credit. These new regulations cast aside regulatory rules upon which companies have relied for many years permitting arm's length pricing in the purchase of components. The new regulations produce the discriminatory result that an arm's length third-party price can be used to value outbound sales of components but not inbound purchases of components by the possession company for purposes of the section 936 calculation. I believe that a fair and workable solution can be developed to address these concerns and would ask the Senator to join me in encouraging the Treasury Department to seek such a solution.

Mr. ROTH. I believe this is an area that Treasury and the IRS need to revisit. I join the Senator from Minnesota in encouraging them to do so.

Mr. HATCH. Mr. President, I rise today to describe why the repeal of Internal Revenue Code section 956A, which is included in the Small Business Tax Relief bill, is important to both U.S. businesses and American workers.

In his remarks 2 days ago, the distinguished senator from North Dakota insisted on referring to the repeal of 956A as opening a tax loophole. This is simply not true. Rather, what the repeal does is loosen a noose that has been strangling the competitiveness of many of our U.S. businesses.

How many of my colleagues would stand up and say, "Yes, I would like to hamper the competitiveness of U.S. businesses abroad by imposing tax restrictions on them unequal to any restriction imposed on their competitors." Or, how many of my colleagues would say that they are in favor of discouraging U.S. firms from increasing employment at home by taking advantage of business opportunities abroad. Yet, in essence, this is the effect of not repealing section 956A.

I don't believe there is even one Senator in this Chamber who wants to go home in August and brag about putting U.S. companies at a competitive disadvantage. I don't believe there is even one Senator who wants to go home and brag about eliminating jobs for U.S. workers. Yet, this is exactly what section 956A does.

Mr. President, let me briefly discuss the history of section 956A. Until 1993, when President Clinton signed the largest tax increase in the history of this Nation, the U.S. generally did not tax the active income earned by a U.S. corporation's foreign subsidiaries until that income was actually repatriated to the U.S. parent. This tax deferral enabled U.S. companies with foreign affiliates to compete on a reasonably level playing field with foreign competitors. This is because no other industrial nation's tax law forces a parent corporation to pay taxes on income earned by a subsidiary until that money is sent home to the parent.

However, in 1993, the Clinton administration proposed and Congress enacted a limitation on this tax deferral. The provision, now known as section 956A, forces the parent corporation to pay tax on a portion of its foreign subsidiary corporation's active income to the extent it has an excessive accumulation of passive assets.

Mr. President, this new restriction did not close a tax loophole. Instead, 956A closed doors of opportunity for U.S. business and hindered employment and investment growth. As I mentioned, section 956A has no counterpart in the tax laws of our foreign competitors. Hence, it effectively places an undue burden on U.S.-owned companies abroad—a burden that our competitors do not have.

There are some who want us to believe that the enactment of section 956A would discourage U.S. companies from moving jobs overseas. Mr. President, this is just not true. In fact, the provision has resulted in just the opposite effect—it encourages U.S. companies to employ more overseas workers.

Let me explain. As I stated before, section 956A subjects excessive passive assets to U.S. tax before profits are re-

patriated to the United States. This provision has actually created an unintended incentive for companies to invest in hard assets, such as manufacturing facilities, outside the United States. Doing so enables the subsidiary to increase its hard assets and thus lower the ratio of its passive assets to total assets, which effectively lowers the tax. Manufacturing facilities, unlike passive assets, require workers, almost always hired from the host nation. Thus, the perverse effect of section 956A is to provide an incentive for U.S. multinational companies to invest in jobs overseas for non-U.S. workers.

Contrary to what some contend, U.S. companies generally do not invest abroad simply to take advantage of lower labor costs. In fact, most foreign investments by U.S. companies are in countries where labor costs are often higher than in the United States. In 1993, two-thirds of the assets and sales of U.S.-controlled foreign corporations were in seven primary locations: Germany, France, Japan, United Kingdom, Netherlands, Canada, and Switzerland. The average annual compensation paid to foreign workers in these countries was 15 percent higher than the average paid to workers in the United States by the parent corporations.

U.S. foreign businesses are almost always established in order to better service foreign customers, to have a local presence, to avoid excessive transportation costs, or to develop natural resources in the geographic locations where they are found. In other words, decisions of where to invest are made for solid business reasons—not for tax avoidance. Many foreign countries insist that contracts be made only with local entities.

It is also important to note that these U.S. subsidiary corporations seldom take jobs away from the United States, but actually supplement domestic production and increase U.S. jobs. U.S.-owned foreign corporations are large purchasers of exports from their affiliated companies in the United States. According to the U.S. Department of Commerce, 40 percent of U.S. multinational corporations' exports are sold to U.S. affiliates overseas.

For every one billion U.S. dollars in manufactured exports, over 14,000 manufacturing jobs are created in the United States. Employment growth between 1987 and 1992 at U.S. plants that started or continued exporting during that time was 17 to 18 percent greater than at comparable plants that did not export.

These statistics clearly indicate that expanding U.S. business overseas increases growth back home, including employment growth. We cannot ignore the global economy we are living in by discouraging U.S. companies from expanding to other countries.

Repeal of section 956A doesn't benefit just a handful of large corporations, as has been suggested. Small businesses must invest overseas also. In today's

world, any business that doesn't recognize the necessity to go global is in jeopardy of losing out to foreign competition. In fact, many small Utah businesses are having great success in exporting and are finding a need to invest outside the U.S. to establish a global presence. Does this mean we are losing jobs in Utah? Hardly. Rather, such international growth has further fueled my State's employment boom.

Finally, Mr. President, let me emphasize that repealing 956A will give no special treatment to U.S. businesses with foreign affiliates. In fact, the tax treatment of U.S. businesses after the repeal of 956A will be the same as the tax treatment received by a U.S. individual who holds shares in a company and defers U.S. tax on the earnings of the company until the company actually pays the dividend to the shareholder.

Until 1993, our tax law has always taxed the active profits of American-owned companies abroad when those earnings were sent to the U.S. company through dividend, transfer payment, or other means. Let me reiterate that repeal of section 956A does not change this basic concept of the Internal Revenue Code. Rather, it restores the traditional treatment that was changed by the misguided 1993 provision.

I am proud to say that I stand for creating employment for American workers. I stand for increasing our exports and developing foreign markets, and I stand for repealing section 956A to remove the strangling provisions it places on U.S. businesses trying to compete on a level playing ground with foreign competitors.

Ms. MOSELEY-BRAUN. Mr. President, I rise in support of the Small Business Job Protection Act, particularly its minimum wage provisions. I would like to commend Chairman ROTH and members of the Finance Committee who worked in a bipartisan fashion to put together a very comprehensive bill that helps small businesses invest, grow and create new jobs.

I am particularly proud to have succeeded in including a large number of provisions in the Small Business Job Protection Act that I, along with my colleagues, worked very hard to place in the bill and retain in conference. These provisions will help to change peoples lives by creating pension equity, providing educational assistance, preventing job loss, moving people from welfare to work, encouraging research and development and giving assistance to first-time farmers.

One of my primary focuses during this Congress has been to identify and resolve the current pension laws that are and have been inequitable toward women throughout history. As a result of this effort, earlier this year, I introduced the "Women's Pension Equity Act of 1996." This bill begins to assist millions of women retain pension benefits earned during many years of marriage. Today, I want to thank Chairman ROTH for including in this small

business tax legislation two of the most important provisions from my women's pension bill, provisions which received broad bipartisan support. One requires the Department of Treasury to create model language for spousal consent with respect to survivor annuities for widows. The second requires the Department of Treasury to create model language for Qualified Domestic Relations Order forms used to divide pensions during divorce.

Pension retention—issues associated with holding onto earned pension rights—are important safeguards against "retirement surprise." Pensions are often the most valuable financial asset a couple owns—earned together during their many years of marriage. Unfortunately, it is now all too easy for a woman to unknowingly compromise her right to a share of her spouse's pension benefits in case of widowhood or divorce. If she reads "lifetime annuity" to mean her lifetime and signs the forms waiving survivor benefits, she loses her pension if her spouse dies. In case of divorce, if both spouses do not sign a complete QDRO form, she loses her right to any pension benefits, even if the marriage lasted fifty years. The provisions adopted in this bill will make it more likely that women will be able to protect their rights and retain their pensions.

Additionally, I am an original co-sponsor of the Spousal IRA Equity legislation. This provision will allow a deductible IRA contribution of up to \$2,000 per year to be made by each spouse including homemakers. Currently, a spouse who works outside the home is allowed to make tax-free contributions to an Individual Retirement Account up to \$2,000 annually. However, the spouse that works in the home is only allowed to contribute \$250 annually. This Congress has agreed for the first time to right this wrong and provide fairness for women who work both outside of and in the home.

I regret the deletion by the conference committee of safeguards against the taxation of non-physical compensatory damages. That provision is inequitable because it makes a distinction between physical and non-physical compensatory damages. Under this bill, victims of sex discrimination, race discrimination, and emotional distress would be required to pay taxes on any damages they receive while, on the other hand, victims of battery will not be taxed. Not only is this provision bad tax policy but it is discriminatory, and will make it more difficult for victims of these crimes to achieve justice. I hope the Congress will revisit this issue and correct this injustice.

Despite my displeasure with this particular provision, this is a good bill. The bill increases investment by small businesses and creates incentives for businesses to move people from welfare to work. It creates a new tax credit, called the Work Opportunity Tax Credit, which replaces the old targeted jobs tax credit program. The Work Opportunity Tax Credit encourages employ-

ers to hire people from populations suffering from high unemployment, who are on government assistance or who have limited education. I am just delighted that the conference bill includes a provision I authored, along with my Colleagues Senators BAUCUS and HATCH, that will help expand the pool of eligible employees by adding a category for indigent 18- 24-year-olds. Adding this category encourages employers to hire young people who are all too often overlooked, promotes self-sufficiency and prevents our young people from returning to the welfare system. The Work Opportunity Tax Credit will enable employers to access the credit after an employee has worked 400 hours, thereby providing additional incentives for job training.

Job training and educational assistance by employers is essential to create a strong work force. That is why I am so pleased that I was able to work with Senators ROTH and MOYNIHAN to enable employers to provide educational assistance to their employees without including the costs associated with such assistance in their gross income. This exclusion ended December 31, 1994 and is retroactively reinstated in this bill. However, the program only applies to undergraduate study until January 1, 1998 and it troubles me that the House would not agree to extend the benefit to employees who are in graduate school past June 1996. Employer-provided educational assistance on a graduate level helps our national competitiveness, and I hope that we will revisit the limitations of this bill.

The investments we make today in education and research will determine our global competitiveness in the future. That is why I am happy that this bill extends the Research and Experiment Tax Credit through May 31, 1997 however, I believe it should have been retroactively reinstated in this bill and hope that it will be made permanent in the future. If government does not encourage research and development, it will have a negative impact on our international competitiveness and our national security. The R & E tax credit has demonstrated its efficacy, and it should be continued with sufficient certainty to encourage long term planning and investment in this area.

A tax credit for nonconventional fuels is yet another investment that will help develop new sources of coal and methods to recycle biomass that will increase our technological advancement. The section 29 tax credit is important for recovering and managing landfill gas such as methane. In so doing, it helps to improve the quality of life around landfills, reduce smog, and alleviate global warming. With this tax credit, landfill gas has become a practical fuel for use in conventional electrical generating equipment. However, the extension of the credit will be less effective as it relates to coal because an additional year is needed to

get plants up and running given the complexity in converting coal into synthetic fuels. I hope we will revisit the effective date of the "placed in service" deadline.

The effective date was changed in the conference agreement for the repeal of the fifty percent interest income exclusion for financial institution loans to Employee Stock Ownership Plans [ESOPs]. In the original legislation, the House wanted to retroactively repeal the fifty percent interest income exclusion for ESOPs using October 13, 1995 as the effective date. As you may assume, that early effective date would have a devastating impact on companies that had reasonably relied upon the current laws and acted to establish an employee stock ownership plan. I am quite pleased that the conference agreement included today as an effective date. Although I am pleased that today will be the effective date for repealing this provision, I wish that we did not have to repeal the fifty percent interest income exclusion for Employee Stock Ownership Plans at all because they are good for business and good for employees. When an employee owns part of the company, their investment is greater, their work product is better and their loyalty will last longer, this bill only makes it harder for this to occur.

Not only does this bill help small businesses but it also helps first-time farm buyers. As a cosponsor of the Aggie Bond bill, I am thrilled that it is included in this conference agreement. Provisions of the aggie bond legislation helps to insure Illinois farmers and farmers all over the nation are given assistance in maximizing their participation in the first-time farm buyer program. This provision allows the purchase of farms from related parties and increases the maximum-size requirements for first-time farmer industrial development bonds.

Not only does this bill help farmers and small businesses but it also helps low wage workers with an increase in the minimum wage. Raising the minimum wage is about allowing people to realize the American Dream. It is about valuing hard work and providing people with the opportunity to provide for their families.

For the millions of American's who support themselves and their families on \$4.25 an hour, the current minimum wage is not enough to raise them out of poverty. The ninety cent increase we are voting for today will make a difference to the ten million Americans that earn the minimum wage.

In Illinois, over 10 percent of the workforce, or 545,647 people, earns the minimum wage. The majority of the people earning the minimum wage—two-thirds—are adults, many are parents. Working 40 hours a week, 52 weeks a year, a person earning the minimum wage currently earns only \$8,840. The poverty rate for a family of four is \$15,600.

In light of our recent vote on ending the welfare safety net for children, I

would like to point out that close to 60 percent of those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. They go to work every single day, and still the minimum wage does not provide them with a living wage on which to raise their families. This increase in the minimum wage will make a difference to these women.

Increasing the minimum wage by 90 cents over the next year is the right thing to do. It has been almost five years since the minimum wage was last increased. As I'm sure anybody who has gone to the grocery store or the doctor's office lately can tell you, in the last five years prices have increased, but wages have stayed the same. The report on our economy issued yesterday confirms this fact: wage growth was at 0.08 percent, while our economy grew at an annual rate of 4.2 percent.

Increasing the minimum wage will raise wages, not lose jobs. Last year a group of respected economists, including three Nobel prize winners, concluded that an increase in the minimum wage to \$5.15 an hour will have positive effects on the labor market, workers, and the economy. Paying a living wage does not mean that jobs will be lost.

Workers are our greatest resource. We should recognize the contributions of our workers. Our country is founded on the belief that hard work is the foundation of success—this is the American Dream. Congress should encourage, not discourage, effort and perseverance. A minimum wage should provide a living wage for those who are working day in and day out to provide for themselves and their families. Family values and the American Dream are ideas we like to talk about, but today we can actually make them more real for millions of Americans.

Although it is not perfect, this is a good bill. Women, children, and working people will all benefit, and it will help promote job-creation, and economic growth. I want to commend my colleagues on the Finance Committee, particularly Chairman ROTH and the ranking Democratic member, Senator MOYNIHAN, who have worked hard to produce a bipartisan bill that promotes growth and stability among small businesses.

I urge my colleagues to join with me in supporting the final passage of what is generally a common sense, people oriented, bipartisan bill.

Mr. CRAIG. Mr. President, I rise in opposition to the conference report on H.R. 3448.

This title of this bill is supposed to be the "Small Business Job Protection Act of 1996".

Title I, the tax title, is consistent with that spirit. It would make the Tax Code a little fairer, improve economic and employment opportunities, and provide some necessary tax relief.

But the problem remains that, in passing this bill as a whole, we would

be driving the economy with one foot on the gas and the other on the brake.

The Senate had the chance to tip this bill in favor of creating more and better jobs and providing necessary relief for small businesses. Unfortunately, on a close vote, this body defeated the amendment offered by the Chairman of the Small Business Committee, the Senator from Missouri [Mr. BOND]. That amendment would have protected small, vulnerable employers from a one-size-fits-all mandate increasing the federal minimum wage.

The Democrat Party had two years, during which it controlled the White House and the Congress, to increase the minimum wage. They never moved a bill out of committee. They never offered an amendment on the floor. They waited until this year to strike. I just have to suspect there were some political motivations involved, and some crocodile tears shed over the workers they say they want to help.

I commend those who have labored long and hard to take a legislative lemon and turn it into lemonade. I am sorry I cannot, in good conscience, vote for the resulting bill.

All too often, Congresses and Presidents have taken a perceived problem, put it under a microscope, and tried to address it with a one-size-fits-all federal mandate. The result often has been government by anecdote. Unintended consequences and innocent bystanders have not always been taken into account in the rush to adopt a "feel-good" solution.

That risk of unintended consequences is definitely present in the bill before us today.

We feel for those Americans who are working hard at making ends meet. It is easy and it is tempting to look at a \$4.25 an hour minimum wage and say, let's just mandate an increase in that wage. But that is the wrong answer. That approach will hurt the very persons it is meant to help—the working poor and entry-level employees.

Common sense, the laws of economics, and experience all tell us this. We've all heard the numbers. The commonly accepted figure is that a stand-alone increase in the minimum wage from \$4.25 an hour to \$5.15—a 21 percent increase—would result in the loss of at least 621,000 jobs. In Idaho, it would destroy 3,200 jobs.

I don't know how many of those jobs might be saved with the tax provisions in this bill, but it's obvious that many small employers will fall through the cracks. These are the businesses who will have little or no opportunity to use the tax relief provisions elsewhere in this bill.

These are employers who have taken pride in creating jobs and opportunities for those who need them, and who take pride in serving their customers at affordable prices.

I've heard from many small businesses in Idaho who are concerned about this bill. They are already calculating whether they will have to lay

off employees because of this bill. Restaurants are already having new menus printed up with higher prices. Jobs will not be available for young and entry-level workers, because some employers simply will no longer be able to afford them when the government arbitrarily raises the price of their labor.

Some have suggested that the economic impact of such an increase is "negligible." But it's not negligible for each American who loses his or her job as a result. In many cases, the job lost would be the most important one that person will ever have—his or her first job.

In recent years, small businesses have created every net new job in this country. They take the risks of hiring and training new workers. They do not have the economies of scale of large businesses and suffer a disproportionate impact from government regulation. They tend to be labor-intensive. If you drive up the costs of their labor, they will be forced to create fewer jobs.

In fact, 77 percent of the economists who responded to a survey of the American Economics Association agreed that, by itself, a higher mandated minimum wage would have a negative impact on employment.

Obviously, that negative impact is going to fall on workers at or near the minimum wage, and especially those who are the least-skilled and need an entry-level job the most.

Realistically, the federal minimum wage today already is a training wage. The average minimum wage worker is earning \$6.06 an hour after one year.

In most work places, at every level of compensation, it is common for a new employee to be paid more after a few months. That is because there is almost always a learning curve, during which the employer is investing time, energy, and money in training and acclimating the new employee. The opportunity wage in this amendment simply reflects that reality of labor economics.

Mr. President, I do want to emphasize that I support the tax title of this bill. I particularly want to express my support and appreciation for several of these provisions, including:

The Shelby-Craig adoption tax credit; enactment of this credit is compassionate, pro-family, pro-children, and long overdue; increasing the availability of Individual Retirement Accounts for spouses working in the home as homemakers; revising and extending the Work Opportunity Tax Credit, which will help employers hire and retain disadvantaged employees; restoring and extending the tax exclusion for employer-provided educational assistance; making S corporation rules more flexible; providing fairer treatment for dues paid to agricultural or horticultural organizations; improving depreciation and expensing rules for small businesses.

I also commend the conferees for accepting the House's provision restoring and making permanent the exclusion

from FUTA—the Federal Unemployment Tax—for labor performed by a temporary, legal, immigrant agricultural worker. Such employees are ineligible for FUTA benefits that are financed by this tax. Therefore, this tax is imposed on employers for no reason, except that the previous exclusion simply expired.

I have supported these provisions consistently in the past and commend the Finance Committee for including them in this bill.

I do want to express one note of concern. This bill would extend the Research and Experimentation Tax Credit, but with an early sunset—May 31, 1997—and without making it available for investments made after it last expired and before July 1, 1996.

The R and E Credit is one of those "extenders" that keep expiring and keep getting renewed. As a matter of fairness, most, if not all, of these extenders simply should be made permanent, or at least extended for a longer period of time. Several times in the past, these provisions have been renewed retroactively, but that is not the case of the R and E Credit this year.

This stop-and-start approach to tax law undoes much of the good intended by these tax incentive provisions. We need to provide taxpayers with greater predictability in the Tax Code if we want to be effective in helping them invest and create jobs.

Overall, the tax title provisions in this bill are valuable and beneficial. I commend the Chairman and Members of the Finance Committee for their work.

We should be passing laws that boost the economy, increase opportunity and create jobs. We can and should do better than passing a bill that gives with one hand and takes away with the other. Therefore, although there are good provisions in this bill, I must cast a nay vote today.

MORNING BUSINESS

THE PRESIDENT'S "TRAVELGATE" 180

Mr. GRASSLEY. Mr. President, yesterday's display by the President of the United States, snapping at reporters' questions about the Billy Dale bill, says a lot to me.

First, it tells me the President has once again gone back on his word. This is not a surprise. It has happened so often with this President. And to be fair to him, he is certainly not the first politician that has gone back on his word, from either party.

Yet, this President has championed the little guy. He came to town declaring war against all the wrongs resulting from the Washington political culture. Then, his own White House committed such a wrong.

Initially, the President did the right thing. He said his staff had made a mis-

take. They had handled the matter wrong. Their display of cronyism and favoritism was at the expense of the careers and reputations of seven dedicated public servants and their families.

All the while, the President's staff was waging war against the character of these seven. It's also known as character assassination. After that, the White House launched the IRS and the FBI to harass them, as if to justify the staff's wrongdoing.

Then, they sent the Justice Department out to prosecute them. They had the full force of the Federal Government out after these seven public servants and their families.

The case went to trial. And it took no time at all for a jury to acquit Billy Dale. That is how trumped up the charges were. A jury had no problem seeing that.

Clearly, the White House drove Mr. Dale and the others right out of town with no justification. It was pure, naked politics, cronyism and favoritism. And when a White House uses the powers and resources of the Nation's No. 1 law enforcement agency, the Nation's tax collecting agency—which also happens to be the No. 1 harassment agency—and the Nation's No. 1 prosecution department, against innocent workers and their families, try telling the public that's not grotesquely wrong.

And that is why Congress moved to reimburse Mr. Dale and the others for their legal expenses.

Even the President, after the acquittal, said he regretted what Mr. Dale had to go through. But the President has now decided that the right move is to reverse himself and defend what his staff did to these seven families. He defends zealous White House staffers using the full powers and resources of the Federal Government to harass innocent people. He lines up on the side of politics, cronyism and favoritism. He fails to right a wrong that was perpetrated by the Washington culture of politics.

The President did another reversal as well. After the acquittal, the President's personal attorney, Robert Bennett, issued an inappropriate and sour-grapes response. Mr. Bennett improperly discussed in public a confidential matter involving a plea agreement he alleged Billy Dale's attorney offered. Billy Dale denies the allegation.

Upon Mr. Bennett discussing confidential information, the White House rightly said Mr. Bennett had stepped over the line. His comments were objectionable and improper. The reason is, plea negotiations are confidential. Rules exist to protect that confidentiality. Mr. Bennett may have violated the intent of those rules. And so the White House admonished him.

It turns out, Mr. President, that the plea agreement issue came up again yesterday. In public. Notwithstanding the rules of confidentiality.

But this time, the White House didn't issue a statement of admonishment.