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UNNECESSARY BUSINESS SUBSIDIES

WEDNESDAY, JUNE 30, 1999

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC.

The committee met, pursuant to call, at 10:10 a.m. in room 210, Cannon House Office Building, Hon. John R. Kasich (chairman of the committee) presiding.

Members present: Representatives Kasich, Chambliss, Herger, Franks, Smith, Hilleary, Sununu, Collins, Wamp, Green, Fletcher, Miller, Ryan, Toomey, Spratt, Rivers, Minge, Price, Hoeffel, and Moran.

Chairman KASICH. The committee will come to order. We will get started, Mr. Nader, and get you up there. I want to thank everybody who is going to be testifying today, and I think everybody has heard of Ralph Nader, especially if you ever drove a Corvair. Of course, Ralph, most of the people in this room don't even know what a Corvair is. That shows that you and I both are getting older, doesn't it?

We are also going to have a panel of Members, former members, and experts who are going to examine corporate subsidies and the way in which they might be curtailed. We had a State representative from Pennsylvania who couldn't make it; and T.G. Rodgers, the president of Cypress Semiconductor, wanted to be here, but he had problems with a conflict.

There are a number of people who are going to submit written testimony which I think we will find interesting, and we are here today really to examine the proper role of the Federal Government in regards to our free market and our free enterprise system.

Ralph, I think as you know, and John, as you know, I have been subject to some criticism by people in the business community because I have decided that it was necessary to try to clean up this subject area that I call corporate welfare.

I believe very strongly in free enterprise and believe very strongly in free markets. I believe that free enterprise and free markets can only occur when there are limits on government, and I am a passionate supporter and believer in this capitalist system because what it allows us to do is to take ideas way from the back of our heads and be able to translate those ideas into products that, in fact, can make improvements for every individual on the face of the earth, and I think during the course of my lifetime there was a long argument about which economic system is the most humane, and we tried all kinds of systems around the world.

Most of them top down, capitalist system being one that stresses the individual, and I fundamentally believe is a bottom up system, and I think what we know as the greatest threat to our free enterprise system is growing government, government that gets in the middle by excessive regulation or, for that matter, that creates a program of subsidies that tries to pick winners and losers.

So if, in fact, you are a strong supporter of free enterprise and of free markets and if you believe in capitalism, then you ought to be working aggressively on Capitol Hill to end these special subsidies that businesses get that distort the marketplace and result in the government of the United States picking winners and losers. And it is interesting that those persons who tend to be the strongest supporters of free enterprise and free market often tend to believe these subsidies are appropriate; I have got to call attention to the fact that there is a great, great inconsistency.

I am particularly against the government subsidies that accrue to some but not to all companies in the United States, and I am against the special deals that are provided to many businesses from government. The problem is many times the special deals, ladies and gentlemen, go to the largest companies in America. A small businessman living on main Street can't get the same kind of benefits that some of the very largest multinational corporations can get inside of this country.

Steve Moore, who, Ralph, would be a strange ally of yours, is going to testify here today, and he has noted in the past, quote, there are hundreds of thousands, millions of small businesses that pay taxes that do not participate in these special programs. And so to me, it really is matter of fairness, and it really is a matter of the proper role of a limited government.

I argued back in 1995 that if we were going to reform welfare for poor people in America, which we have done, then we need to reform welfare for rich people in America because America is about a sense of fairness. What is good for the goose is good for the gander, and we have been vigilant in trying to maintain this welfare reform that we put in place and have made some slight progress in the area of tailoring subsidies to business.

And I have got to go all the way back to 1995 and a number of the provisions that were reformed, Mr. Nader, in this Congress that for example closed the loophole on the largest pharmaceutical firms in Puerto Rico that had a special advantage.

Most of my lifetime I heard people yell and scream and shout, many liberals, against and rail against these particular subsidies, but yet never saw anything done; and I want to pay particular tribute to Bill Archer and many members of the republican party who actually stood up and closed some of these loopholes.

Now, I know that your view would be it is just the tip of the iceberg, but you have got to get started when you are in an effort to try to reign in this area of corporate welfare.

I think there is a whole collection of programs that we can talk about today, programs that I believe should be eliminated because of unnecessary subsidies, and we will have a list displayed sometime of the top 10 items that many of these other groups and panels think should be high on our list. There are programs like the Overseas Private Investment Corporation, which provides sub-

sidized loans and insurance for companies to invest in some of the world's riskiest overseas markets.

It is interesting to note that these programs are used by some of our largest corporations, including, for example, McDonalds, which gets advantages on insurance programs and loan programs to operate in various parts of the world; and I want to them operate in various parts of the world, but I don't understand why the government ought to be providing them some kind of an insurance program that the lady out in my own hometown who makes cookies can't get for her operation.

If you want to go overseas, God bless you, go. There is plenty of money to be made, but don't ask the taxpayers to try to foot the bill to give you certain advantages to go overseas, particularly when you are large and you have had a great history of success.

Then there is the sugar program. Now, I don't know where you are on sugar, Ralph. I think you are probably off the mark on this one, I am not sure; but, you know, we limit the importation of sugar in the United States which drives up the cost of sugar for every American family to twice the price of what it should be, and at the same time I think, as we all know, there has been significant environmental damage as a result of sugar production in this country. And the fact is, it makes no sense in America today to not permit an open and free market in regard to a commodity like sugar.

Then there is the advanced technology program whereby we give grants to some of the largest and most profitable companies. We have an $8 trillion economy. We also have an R&D tax credit, a research and development tax credit, that I happen to support. I know there will be a witness here today that hates the research and development tax credit, but I think it is a program that encourages the kind of research that we need to develop the products that we need but to have on top of it a grant program in this $8 trillion economy that passes out grants. In fact GAO interviewed grant winners.

They concluded that half of the recipients would have conducted the research even without government funding and that government funding goes to some of the largest corporations in the United States. They don't need that kind of money. It is picking winners and losers, something that I know many in my party rail about all the time.

Then we have got the power marketing administration which is located within the Department of Energy, which provides subsidized electricity to many parts of the country paid for by the people who sit in this room; and the fact is we have entered an era of electric deregulation where we are trying to take utilities and we are trying to put them more in tune with the market that we think will provide huge advantages to consumers, and yet here we still maintain the power of marketing administrations.

Secretary Robert Mosbacher, the former Secretary of Commerce, said the Department of Commerce is nothing more than a hall closet where you throw in everything that you don't know what to do with. That is the department that contains the advanced technology program.

I found it a little bit different than that. I think it is a place where you put your kid when he worked on a presidential campaign and he couldn't get a job in the White House so you stick him in the Commerce Department. By the way, it was the commerce department that participated in the granting of licenses to companies that have sold sensitive technologies to other countries, particularly the Chinese.

So I have got to tell you that when you look at the department of energy or you look at the Department of Commerce, as you know, I have been in favor of eliminating both of them.

I not only think we would have saved money; but, frankly, I think our nation would have been more secure had we been able to consolidate many of the programs, rid ourselves of many of the unnecessary programs, professionalize the remaining functions so we not only were to save money, eliminated some corporate welfare; but at the same time I believe made ourselves more secure.

When you take a look at the Department of Energy and the fact that we have not been able to professionalize or consolidate any of those laboratories, when bureaucracy gets too big, it is unresponsive and even today that we make directives to the Department of Energy, and it appears the people in there just ignore the directives.

I think this is going to be a long process. Somebody asked me have you given up on this battle of corporate welfare, and I said I have not because it is a matter of fairness; but Mr. Nader, I have to tell you that it has been very difficult here to even get groups who are interested in doing away with unnecessary subsidies to be able to come together, sit at a table together and come up with a simple list of 10 items that they can all agree upon ought to go. This is going to be, I think, a 10-year battle to start to do away with some of these subsidies, but we started this battle a couple of years ago.

We have had some significant, yet still small, victories, including the area of timber. We have made some progress but it is going to be a long, long process to try to eliminate these special benefits that people get in this country that don't accrue to most folks on Main Street.

I know you have been working on this since about 1975, I think, is when you wrote your first piece, and what I am pleased about is both the liberals and conservatives—you hate to use those terms today—but liberals and conservatives, people on all sides of the political spectrum, see the need to eliminate these subsidies, to restore a sense of limited government, to restore a sense of fairness in terms of the role of the Federal Government.

And so, Mr. Nader, I am prepared to march on and keep the battle going and hopefully be joined by some business interests. There are some that share our concern about these unnecessary subsidies. Go out to the Silicon Valley and you talk to them about the advanced technology program, they laugh at you. Bill Gates, along with his cohorts, didn't need an advanced technology program to develop this magical invention called the computer. In fact, had we had a lot of government programs, he probably would have never developed it.

As I like to say, people didn't know—people in Washington didn't know anybody who lived in San Jose and then when they found they lived out there, they didn't know what they did, and to prove that to you, we thought Y2K could be fixed with one little switch, only to find out that it is far more complicated than that.

I appreciate your being here today, Mr. Nader, but I also want to pay tribute to Bob Shamansky, former Member of Congress who is a friend of mine. He is a very passionate man who also has some areas that he is going to discuss with us today. He is here in attendance and will appear later, plus a whole panel of people. This will take about all day to get through all of this testimony, but I just think it is important we shed light on this matter and I think in the process rally the support of the American people out of a sense of fairness that we can restore the proper role of government as it relates to this free enterprise, free market system.

Mr. Spratt is recognized.

Mr. SPRATT. Thank you, Mr. Chairman. I think this is what this committee ought to be doing. We have a certain detachment and disinterest that other committees don't have. Appropriations, for example, spends money; Ways and Means looks for different ways to use the tax code creatively.

We have a special detachment and disinterest that allows us to give an unflinching examination to targeted tax breaks, special interest spending, subsidies, things that have been in the budget for a long time and served a purpose at one time but may not serve a purpose anymore. We need to scrub it, scrub the whole budget periodically. I am glad we are doing it.

As I look through the materials before us, though, I see a lot of old targets that have been resurrected that have been taken on before and they survived. A lot of these have survived not because they serve some special interest that happens to make big PAC contributions or have friends in the right places. They survived because when they were challenged in committee and on the House floor, Members of the House have trooped to the floor, scores of Members, who testified to their utility. A good example is the Economic Development Administration.

The reason it has survived is not because it has been overlooked. Goodness sake, it has been a frequent target; but time and again, when it is targeted, Members on both sides of the aisle stand up and say, I have seen what EDA did in my district. It was the grantor of last resort when we needed money for a sewer line or a water line and this was the linchpin in bringing in new industry to an underdeveloped area and to a high unemployment area. EDA was there when nobody else was there. It served a useful purpose.

I dare say the same is true of the Commerce Department. You can abolish the Commerce Department, but you have got all the component parts of it. All you would do is chop off the head of it. If you kill the secretariat, somebody, I hope, will still watch the weather; somebody, I hope, will still take the census and all of its functions, most of its functions. The vast majority of these will be accomplished somewhere else.

So I think we need to bear that in mind, and as we go through this day-long hearing, try to develop some sort of rubric, some sort of logic for what we are doing. We are looking at special interests,

deciding whether or not these interests ought to be served. We are looking at government subsidies, deciding whether or not they still serve a worthy purpose. In some cases I think they may.

We are looking for programs that have been lost in the thicket of the tax code. It ought to be pulled back up, the thicket of government spending, a trillion seven, to see if they can still pass muster. It is a good thing for us to be doing and I appreciate it; but as we do it, let us bear in mind that sometimes sweeping claims that have been made in the past about certain of these programs, EDA is an example, haven't stood scrutiny and won't stand scrutiny today. Good example.

I am getting ready to go over to the Armed Services Committee, and I will be back shortly, Mr. Chairman, but I want to go hear about what the B-2 did in the recent war in the Balkans. There have been members—I won't mention names—who have challenged the B-2 before, on the grounds that it was excessively expensive, that the technology really wasn't worth what we were paying for it. It looks like the B-2 came through in this latest war, and so all of the old shibboleths need to be reconsidered from time to time. That is one of them. There will be many more that will be brought up today, and I think we ought to approach all of it with a fresh mind and an unbiased attitude.

Thanks for calling the hearing, Mr. Chairman.

Chairman KASICH. Boy, I would love to start another B-2 debate right here, Ralph, right now. Let us go at it. OK. I want to tell you that I want to thank Mr. Nader. He has been on this issue and on me personally to make sure that we would go forward with the hearing, and I want to thank him for his commitment to this, and Ralph, the floor is yours

STATEMENT OF RALPH NADER, CONSUMER ADVOCATE

Mr. NADER. Thank you very much, Mr. Chairman and members of the House Budget Committee. Thanks for the opportunity to testify on the very vast subject of corporate welfare. Today's hearing is long overdue. There has never been a congressional hearing, to our knowledge, on the subject of corporate welfare, and so in a sense this is a historic occasion, and I hope it will stimulate further inquiry by the House Budget Committee and by other budget committees as well, because you have to stay the course in this area in order to get anything done.

Mr. Chairman, you deserve major credit for issuing a clarion call for congressional attention to corporate welfare. At a time when profiles of courage are very rare indeed, it is quite clear that as you are running for President and having to raise funds under our present political system, you are also holding these very important hearings that might tweak the beak of some of these varied business interests, which is why I want to especially commend you. We need more of that kind of activity here on Capitol Hill.

We have been working on corporate welfare issues for many years. One of my articles focused on a huge subsidy to the railroads which didn't do the railroads any good in 1972. In 1983 we put out a report called Aid for Dependent Corporations, AFDC, a study of the fiscal 1984 corporate welfare budget, and in 1985 a similar one and together with my entire testimony and these attachments and

a few others which I will cite, I ask your permission to put them in the printed hearing record.

[The attachments referred to follow:]

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June 26, 1999, Saturday, Final Edition

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HEADLINE: Gore's efficient-car project fuels detractors; Environmentalists fear it will run 'dirtier'

BYLINE: Heather Skale; THE WASHINGTON TIMES

BODY:

Critics ranging from environmentalists to automakers are calling Vice President Al Gore's pet project to produce a fuel-efficient car a boondoggle - an environmentally unfriendly car costing taxpayers billions of dollars that will be behind the curve when ready years from now.

DaimlerChrysler Corp., Ford Motor Co. and General Motors Corp. are working with the government in the Partnership for a New Generation of Vehicles program to build by 2004 an affordable, safe midsize vehicle that gets 80 miles per gallon.

"They are spending our money and we're not getting anything in return except dirtier cars," said Anna Aurilo, a staff scientist with U.S. Public Interest Research Group, an environmental and taxpayer watchdog group. "We have to ask, 'Do we need to give DaimlerChrysler, Ford and GM a billion-dollar research program?' "

Mr. Gore is intimately involved in the program, doing everything from meeting at home with the companies' chief executives to personally awarding medals to engineers for research progress.

Environmentalists and taxpayer watchdog groups are angry the program, which began in fiscal 1995, is giving billions of dollars to car companies at taxpayer expense.

The government - spreading program funding over six government agencies - is splitting research costs with the auto makers. This fiscal year, the government will spend $240 million on the program, which is expected to cost more than $2 billion by the time a vehicle is developed in 2004.

Although the auto companies have not announced their plans, auto industry experts say they are producing diesel engines to reach the program's goals - which environmentalists decry.

"It's troubling that Gore, the environmental president-elect, is going down the diesel pathway and helping the auto industry build an 80-mile-per-gallon vehicle," said Jason Mark, senior transportation analyst with the Union of Concerned Scientists.

Eric Clark, spokesman for the government arm of the program, said the hybrid and direct-injection diesel technologies being developed are cleaner than conventional diesel vehicles.

"It's not your father's or your grandfather's diesel cars," he said.

But Mr. Mark said the vehicles' emissions would be so high the cars would be illegal for sale in 2004 in California, which is considering banning diesel exhaust because it is a carcinogen, he said.

In a recent report, the National Research Council, a government research group, warned that the program may conflict with tougher air quality standards planned in California and by the Environmental Protection Agency.

Program officials realize it will be difficult to achieve low emissions with diesel, but that goal must be balanced with fuel efficiency, said Paul Wood, spokesman for the U.S. Council for Automobile Research, a group of the three auto makers formed to work with the government.

"If we get 90 percent of the way there, it will be a huge success," he said.

Critics also note that Japanese auto companies soon will introduce in the United States vehicles that go twice as far on a gallon of gas than conventional cars.

Honda Motor Co. will begin selling a car that can go more than 700 miles on one tank of gasoline later this year. Next summer, Toyota Motor Co. will introduce a similar car, which already is being sold in Japan. Both vehicles have hybrid electric engines, which use a small gasoline engine to charge a bank of batteries.

"The partnership is a halfhearted attempt to do what Japan is doing," said Ron Harbor, an auto analyst with Harbor Associates in Troy, Mich.

Toyota probably will beat the old Big Three to market with cars that go three

times as far on a tank of gas, he said.

"The industry will be able to do it, whether PNGV is the first one there is up for discussion," Mr. Harbor said. "If I had to push the limits and say PNGV will make it there first, probably not."

The Toyota Prius, a midsize vehicle set to be sold in the United States next year, falls short of the Partnership for a New Generation of Vehicle goals, Mr. Clark said. It is only twice as efficient as today's vehicles and costs more than comparable vehicles.

Automakers would have never begun researching fuel-efficient vehicles if the program had not been introduced, since the price of gas is so low, he said.

Environmentalists also say the program does not require the automakers to sell the vehicles, just produce a prototype.

"It won't produce clean cars; it will produce one clean car," said Dan Becker, director of global warming and energy for Sierra Club. "Who is going to drive it? Are we going to all share it?"

The auto manufacturers have refused to commit to producing the efficient vehicles, he said.

Mr. Wood of the auto industry said the companies are committed to fulfilling the program's requirements of producing a prototype by 2004.

The automakers are working on other fuel-efficient technologies, such as fuel cells, outside of the program, but they will not be developed sufficiently within the program's timeline.

David Cole, a transportation professor at the University of Michigan, said the auto industry is split whether the program will achieve its goals, according to a twice-annual survey of automotive leaders done by the university.

"A preponderance of the industry doesn't think they will do it commercially - it's a very tough task," he said.

GRAPHIC: Chart, NEW GENERATION?, By The Washington Times

LANGUAGE: ENGLISH

LOAD-DATE: June 26, 1999
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Business, Economics, and the Oval Office:

Advice to the New President and other CEOs

by Paul A. Samuelson, David T. Kearns, John A. Young,
Rudiger Dornbusch, James M. Poterba, Lawrence H. Summers,
Ralph Nader, Martin Feldstein, Clyde V. Prestowitz, Jr.,
Stephen S. Cohen, John Zysman, Laura Tyson

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★ ★ ★

Run the government like the best American corporations.

Ralph Nader

Time and again, corporate executives have told me that government would function better "if it were run more like a business." I've never found this sentiment very persuasive. As one U.S. industry after another fails to meet foreign competition or legitimate consumer standards, can business in general offer itself as a model of sound management? But our best corporations do provide some relevant principles that can be adapted toward making government more efficient, more responsive, more creative, and more humane. The next president can learn from these principles.

1. *The best companies understand that people drive organizational innovation; human resources matter more than money or machines. The next president should adopt policies that will unleash the productivity, morale, and initiative of the federal work force.*

For more than a decade, politicians have run for national office by campaigning against the federal government. They have denigrated the role of the civil servant, thereby discouraging an entire generation of young Americans from public service careers and reducing the quality and integrity of the government.

The next president can take concrete steps to motivate civil servants, increase their sense of worth, and liberate their minds from bureaucracy-induced inhibitions. He should break through the legendary Oval Office cocoon to communicate regularly and directly with federal workers. He should visit major departments, mix it up with the employees, listen to their ideas, stimulate their thinking, and remind them of the importance of their mission. Of course, a president struggles under enormous time pressures. But these give-and-take sessions would make modest demands on his schedule – and they would have an electric and repercussive impact on employee productivity.

In 1978, when Paul Oreffice became chief executive officer of Dow Chemical, he promised to meet in small groups with at least 5,000 workers a year. He told me he reached or exceeded that goal throughout his nine-year tenure. Oreffice found the meetings extremely valuable. He believes they gave him a gut-level feel for the company's mood, allowed him to articulate his goals directly, provided feedback he could not get from his immediate staff, and encouraged a climate of openness at all management levels.

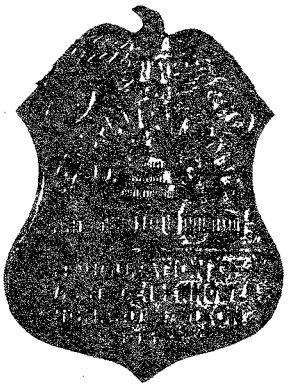
Make specific and public commitments to better service.

The president should also instruct his cabinet secretaries to test aggressively alternatives to standard government procedures. New thinking among civil servants requires creative management policies; those policies start in the Oval Office. More and more companies are using job rotation, skunk works, self-managed teams, and other techniques to fight bureaucratic lethargy. The federal bureaucracy desperately needs such experimentation. One small but powerful idea is for agencies to open "invented here" offices to evaluate and diffuse throughout the government better ways of doing the public's work.

Finally, the president can ensure that government celebrates rather than punishes civil servants who do their jobs. He can give concrete meaning to the still-inadequate protections afforded ethical whistleblowers by not only providing a climate of reform and respect, but by also rewarding them for taking personal risks on behalf of the public interest. He can demand vigorous implementation of the Freedom of

Consumer advocate Ralph Nader has been writing, testifying, and organizing in the public interest for more than 25 years.

Information Act, which, by exposing government practices to outside scrutiny, helps check management abuses and indifference. And he can end interference by the Office of Management and Budget in the government rule-making process. Under President Reagan, OMB's unprecedented reach of power to obstruct proposed health and safety regulations has deeply demoralized the dedicated and expert staffs in such agencies as the Environmental Protection Agency, the National Highway Traffic Safety Administration, and the Occupational Safety and Health Administration.



2. *Some companies are becoming tougher and more intelligent customers. Similarly, the next president should leverage federal buying power to improve product quality and promote innovation.*

John Nevin, CEO of Firestone, told me what it's like to be a supplier to the automobile industry these days. The car companies not only expect better quality and on-time delivery, but they also influence how Firestone itself operates. His major customers inspect Firestone's plants and evaluate its investments in manufacturing equipment. If they are not satisfied with Firestone's tires, they can effectively shut down its production lines. These manufacturers understand their power as large buyers, and are using it to win better supplier performance.

What a contrast with government procurement! The federal government acquires about $200 billion worth of goods and services each year. It buys almost everything that individual consumers buy: food, clothing, pharmaceuticals, motor vehicles, fuel, utility services, health care, you name it. Yet government seldom wields its marketplace power to win better deals for itself or indirectly for consumers.

Most federal procurement is motivated by a narrow accounting mind-set: buy goods and services at the lowest acquisition price. Needless to say, government often fails to achieve even this modest goal, witness the recurring scandals over weapons and computer systems. The Office of Federal Procurement Policy, which Congress created in 1974 to straighten out the buying mess, has been dormant for the last eight years.

So government should buy more efficiently, keeping product life-cycle costs in mind. But its greatest impact would come from buying more creatively—that is, promoting practical but little-used innovations and advancing already-authorized national missions like safety and energy conservation. This important leveraging of the taxpayer dollar should be a top priority of the next president.

Federal agencies, for example, can use their purchasing power to negotiate model contracts for telephone service and health care, and then publicize the terms to show what individuals and businesses should try to achieve. The agencies can also be a vast and reliable source of comparative product information. Every day, government purchasing agents make buying decisions based on product evaluations: who makes the best light bulbs, who makes the best photocopiers, who makes the best wool socks. The government could publish a monthly bulletin of its purchases and explain why it selected specific products, with any proper qualifiers. Consumers could use such bulletins to inform their purchases. Companies who want to sell to the government would have fresh public performance standards to exceed.

Most importantly, government can leverage its buying power to create markets for important and beneficial technologies that might otherwise languish. Government contracts are often so large that the prospect of winning one convinces a company to make a product it wouldn't otherwise be willing to make. The initial government purchase can stimulate subsequent sales in the civilian market.

Military hospitals pioneered the use of generic drugs. Pharmaceutical companies were not enthusiastic about supplying generics, but large institutions like Walter Reed Army Medical Center had the market power to demand them. The Carter administration began a Buy Quiet project to stimulate the design of less-noisy machines and office equipment.

The most dramatic example of the stimulation effect, though, is the automotive air bag. Apart from a few thousand cars in the early 1970s, U.S. auto companies refused to offer air-bag protection, despite 20 years of legislative and regulatory pressures. Then, in 1985, the General Services Administration issued a request for proposals to add 5,000 air-bag equipped cars to the government fleet. The order was large enough to interest Ford Motor Company, which won the contract. Soon thereafter, several insurance

companies that had long supported air bags followed the government's lead and ordered their own air-bag equipped cars.

The auto industry got the message. Ford began offering air bags as an option on two models. Last May, Chrysler announced it would install driver-side air bags as standard equipment on all 1990 cars. Virtually all manufacturers are now phasing in this key safety device. The leverage of a large government contract (combined with prodding safety laws) created a marketplace dynamic that overcame two decades of industry recalcitrance.

Many other socially constructive processes and products could benefit from creative government procurement. Federal policy has long encouraged the use of recycled materials. Why not announce that government agencies will meet 25% of their annual paper needs with recycled stock? This would create economies of scale for producers – and thus bring down unit costs, lower prices for civilian buyers, and encourage supplier competition. The same goes for solar energy. If the Defense Department used photovoltaic units to generate electricity in remote and other adaptable installations, it could save years of building efficient scale in the civilian market – and lower solar energy prices dramatically.

3. Just as the best executives build customer-driven companies, the next president should promote citizen-driven government.

A basic function of the presidency in a democracy is to enhance, not hamper, the ability of citizens to find out what public officials are doing, to express their voice, to gain a role in the policy-making process, to challenge waste and corruption, to discipline government insensitivity. Virtually every president comes to office promising greater citizen access to and influence over the workings of the federal government. Few ever deliver.

Some of the problems boil down to government agencies ignoring the needs of their citizen-customers. In February, the General Accounting Office reported that IRS personnel were giving incorrect advice to 39% of the taxpayers who telephoned with questions. The Postal Service has scaled back door-to-door delivery to new homes, stopped Sunday mail collections, and raised postage prices faster than inflation. Government forms remain maddeningly and unnecessarily complex.

One immediate way to improve government responsiveness is for the president to put his personal prestige on the line. He should make specific and public commitments to better service. The president might guarantee that taxpayers will receive refund checks within a fixed number of weeks after filing their returns. He would then report to the country on the IRS's success in meeting the pledge. Whatever the service areas, the important point is that the president makes commitments – and holds his cabinet secretaries and agency heads accountable for them.

The president should also expand feedback mechanisms within federal agencies. Government offices make remarkably limited use of toll-free complaint hotlines, surveys, and other familiar information-gathering tools that companies use to monitor product quality and customer satisfaction. The creation of thorough and sophisticated complaint data bases would allow officials to distinguish between episodic service problems and systemic inefficiencies. The necessary communications and data processing technologies have existed for years. All that's missing is leadership from the top.

A more far-reaching initiative is to build a citizen empowerment infrastructure that campaigns *on its own* for more effective government. Corporate customers routinely band together to influence suppliers. Computer buyers, for example, form user groups that meet with vendors, evaluate new products, and make complaints. Individuals often lack the resources and ease of communications to organize themselves. Government can help create voluntary associations, open to all interested people, to represent citizens.

Demand performance from suppliers in everything from food to fuel to phone services.

This concept has proved successful on a state level. Several years ago, Wisconsin and Illinois created independent Citizen Utility Boards (CUBs) to represent ratepayers. On a regular basis, utilities (which are government-sanctioned monopolies) were required to include literature in their monthly bills explaining CUB's mission, structure, and how to join. The groups quickly attracted tens of thousands of members and became skilled intervenors in rate hearings, administrative proceedings, and the courts. Most utilities are no longer required to distribute CUB literature, but the groups are functioning well after their modest government-facilitated launch.

It would be easy to apply the CUB idea to organizations like the Postal Service, the Social Security Administration, and the Veterans Administration. Take the postal case. Big mailers (magazine publishers and the direct-mail industry) use lobbyists and trade associations to advance their interests in postal commission rate hearings and to monitor legislation that

affects service. Don't residential mailers deserve their own independent voice? The next president could urge that once or twice a year, the Postal Service distribute literature to all households bearing a message something like this: "We are always trying to improve our service. But we know we don't have all the willpower and ideas to make our service as good as it can be. We think you should have an opportunity, in an organized fashion, to be part of a voluntary association that deals with complaints, postal policies, and postage rates, and that regularly convenes with postal managers to evaluate service quality. If you're interested, send an annual membership fee of $10. You will then have an opportunity to elect a board of directors that will establish an office, hire staff, and set the policies of your organization."

> If the U.S. government were a public corporation, Carl Icahn would have launched a hostile takeover years ago.

The empowerment approach brings many important advantages. It costs taxpayers virtually nothing; the groups are funded by voluntary contributions. It is antibureaucratic; government is not creating another layer of personnel or a new set of procedures. And it enhances civic participation; such independent organizations depend for success on the energy and vision of their members.

4. *Aggressive CEOs put corporate assets to their highest use for the best return. The next president must exercise more effective control of the country's vast public assets.*

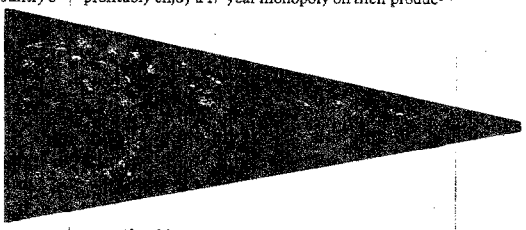
Public assets are tangible or intangible items of value owned by the public and managed by the federal government for social, economic, historical, or security reasons. They fall into three categories: natural resources such as public lands, mineral rights, air rights, and broadcast rights; physical assets such as roads, laboratories, defense factories, and power stations; intangible assets such as government-sponsored research and development, patents on government inventions, and government-collected information and statistics.

The next president doesn't need another blue-ribbon commission to investigate asset-management practices. Decades of congressional hearings, GAO investigations, and federal task forces have documented a pattern of gross neglect. If the U.S. government, with its vast mismanaged assets, were a public corporation, Carl Icahn would have launched a hostile tender offer years ago. Here are just a few of the many opportunities for more aggressive asset management.

The government owns and administers 760 million acres of land, roughly one-third of the entire United States. This acreage contains huge stores of valuable minerals: 30% of the country's coal reserves, 35% of its uranium, 80% of its oil shale. Counting offshore areas, government holdings also contain 40% of the country's natural gas reserves and 85% of its oil. But the Interior Department is a notoriously careless landlord. It has failed to collect adequate royalties on government-owned logging, grazing, mineral, and oil and gas resources. With many leases, it doesn't even require competitive bidding. The cumulative lost revenues amount to billions of dollars.

The Federal Communications Commission *gives away* the licenses that authorize radio and television broadcasters to use the public airwaves. Meanwhile, local television stations change hands for hundreds of millions of dollars—and a huge percentage of any station's value is the government-assigned broadcast license. Shouldn't the FCC, as a representative of landlords (the people), charge rent to these broadcast tenants for the privilege of profiting from the public airwaves?

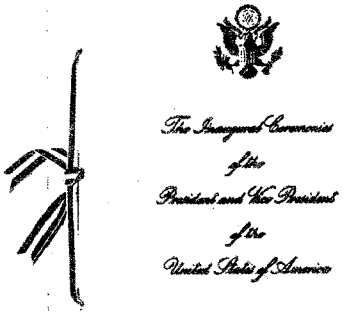
Government agencies underwrite or directly conduct huge amounts of research and development, but they often let the financial rewards accrue solely to the private sector. The National Institutes of Health hand over many valuable research findings to pharmaceutical companies, which patent new drugs and profitably enjoy a 17-year monopoly on their production. Shouldn't NIH collect a royalty on revenues from these patents?



Perhaps the most widely abused federal asset is government's unique power to grant subsidies, preferences, guarantees, and exemptions: tax breaks to oil and gas producers, maritime subsidies, low-interest export financing, bailouts of mismanaged

companies, and the list goes on. These direct and indirect subsidies to business cost about $100 billion a year. Yet federal authorities demand next to nothing with respect to corporate performance. Would a well-run company finance R&D by a supplier or provide low-cost financing to a customer and ask for nothing in return?

The next president should implement a workfare system for this aid to dependent corporations. Some politicians are insisting that welfare recipients work for their financial assistance. We should ask no less of multibillion dollar corporations. The central concept is quid pro quo – if government writes a check to business, government has the right to set performance standards in terms of job creation, environmental practices, and other criteria. Failure to meet these targets should result in penalties or the return or withdrawal of the subsidy. Under such conditions, perhaps there would be fewer subsidies.



5. *Strategic planning at the best companies looks beyond tomorrow's results and identifies long-term challenges and market opportunities. The next president must expand the government's planning horizon to address problems whose impacts extend beyond his term.*

Critics decry the short-range mentality of corporate managers who respond to Wall Street pressures by focusing on quarterly results at the expense of long-term corporate growth. Presidents are not very different. They usually govern as if the future of the United States ends when their term expires.

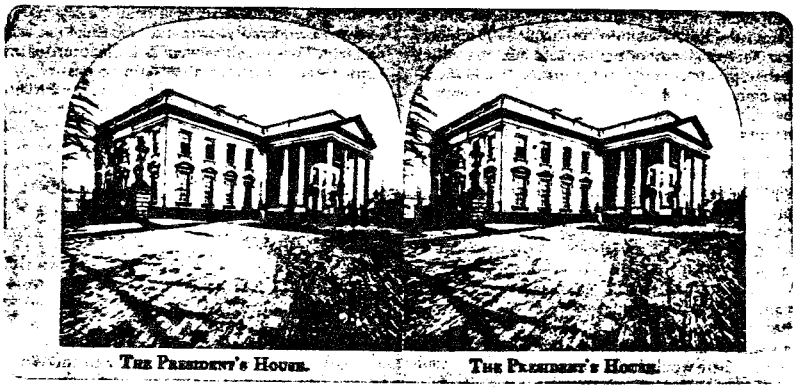
This short-term orientation reached new heights under Ronald Reagan, whose administration has demonstrated an outright aversion to addressing the long-term problems it helped create (i.e., huge budget and trade deficits) or problems it inherited such as acid rain, the greenhouse effect and ozone depletion, and toxic-waste cleanup. Political realities encourage short-term thinking in the White House. So a president must work hard to overcome these forces – or, at the very least, to provide a functioning legacy that helps future administrations face these woes.

> The next president should develop a workfare program for dependent corporations.

One approach is to assemble a series of planning task forces on long-range environmental, economic, health, and social problems. The key to success with these planning groups is appointing members who genuinely want to solve the problem – which means appointing members who are directly affected by the problem. A task force on radioactive waste disposal should include not only nuclear scientists and geologists, but also citizens who live near atomic plants or in communities designated as possible waste sites. A task force on ocean pollution should include not only marine biologists and chemists, but also fishermen and residents of beachfront communities.

I do not want to push the government-as-business metaphor too far. After all, the government of the United States is *not* a business. It delivers unique services and bears special legal responsibilities – curbing marketplace abuse, promoting world peace, fighting disease, meeting the needs of the disadvantaged – that have no direct corollaries in the private sector, except perhaps as a moral imperative of corporate citizenship.

The next president faces a whole set of challenges that speak to these broader duties. It is hard to imagine a more basic domestic function of government than protecting and advancing the health and safety of the American people. The next president must make up for eight years of neglect in furthering clean air, clean water, safe foods, drugs, cars, and workplaces. The same is true of government's role in curbing marketplace abuse. The next president must



breathe new life into the antitrust laws to reverse the growing concentration of corporate power, protect the increasingly endangered rights of injured people to have their day in court, and crack down on military procurement fraud, toxic-waste dumping, and other business crimes documented regularly in the newspapers.

Finally, the next president faces a challenge that goes to the heart of our independence as a nation. I have always decried the excessive influence of U.S. multinational corporations over the economies of other countries. Never did I imagine that the United States itself would confront the hazards of such widening absentee ownership.

The next president cannot afford to ignore the growing foreign economic presence in the United States. Absentee ownership, heavily fueled by a depressed dollar, compromises political sovereignty, reduces our freedom of judgment as a nation, and increases our dependence on foreign banks and corporations in ways that have nothing to do with the proper exploitation of comparative advantage. And there is no pretense of reciprocity in this foreign invasion. Does anyone seriously believe that the Japanese government would permit Firestone to buy Bridgestone or CBS to buy a major division of Sony?

> Presidents usually govern as if the country's future ends when their term expires.

I'm not proposing a ban on foreign acquisitions, although the federal government has a legitimate role in scrutinizing and approving them. The most effective way to reduce absentee ownership is to reduce the budget deficit.

The deficit should be reduced through three steps. Deep reductions (say, 50%) in our expenditures for military forces in Western Europe could save at least $50 billion. It is absurd that British and German companies swallow our industry and real estate while we have absorbed so much of their countries' defense expenditures.

Tougher asset management and steep reductions in the corporate welfare budget could generate an additional $50 billion. The next president should slash government payments to large agribusinesses and eliminate subsidies for nuclear power. He should collect higher royalties on timber, oil, natural gas, and hard minerals on federal lands.

Finally, further reform of the corporate and personal income tax – specifically, eliminating business loopholes left open in 1986 and modestly increasing tax rates for the richest Americans – could generate another $50 billion. These three steps alone would reduce the federal deficit by $150 billion and help reassert U.S. economic stability and stature.

By empowering the citizenry with information, access, and participation rights, and by applying the best of appropriate business principles to our federal government's distinctive roles, the next president can preside over a problem-solving present and bequeath a comprehensive legacy upon which his successors and the American people can build.

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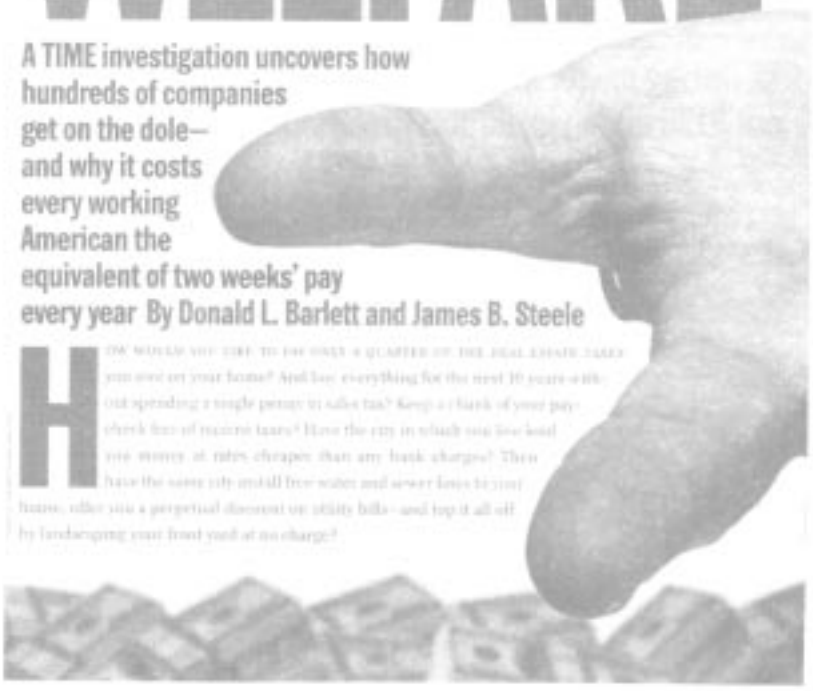
TIME
WHAT
CORPORATE
WELFARE
COSTS
A special
investigation by
Donald L. Barlett
and James B. Steele

SPECIAL REPORT FIRST IN A SERIES

CORPORATE WELFARE

A TIME investigation uncovers how hundreds of companies get on the dole—and why it costs every working American the equivalent of two weeks' pay every year By Donald L. Barlett and James B. Steele



HOW WOULD YOU LIKE TO PAY ONLY A QUARTER OF THE REAL ESTATE TAXES you now on your home? And live everything for the next 10 years without spending a single penny in sales tax? Keep a chunk of your paycheck free of income taxes? Have the city in which you live lend you money at rates cheaper than any bank charges? Then have the same city install free water and sewer lines to your home, offer you a perpetual discount on utility bills—and top it all off by landscaping your front yard at no charge?

SPECIAL REPORT | CORPORATE WELFARE

During one of the most robust economic periods in o out $125 billion in corporate welfare, equivalent to all th

SPECIAL REPORT | CORPORATE WELFARE

STATES AT WAR

Shrewd companies are increasingly getting politicians against one another in a quest for bigger and better tax breaks. Yet rarely do these subsidies create jobs, and the incentives sometimes rob government coffers of funds that could be used to improve services for you and your neighbors

ARKANSAS

Ever Try to Drink a Potato Chip?

THE WATER IN JONESBORO, ARK., STEEPS—literally.

The town sits atop a geological formation where sulfur, natural gas and other petroleum products mingle with the groundwater. The result is a nasty mix that is unusable to residents. Many of the towns wells are also contaminated with potentially deadly *E. coli* pollutants, so a commodity most Americans take for granted simply does not exist in Jonesboro. "My five-year-old daughter doesn't know what it's like to get water out of a faucet," says resident Helen Martin. For the past five years, 200 families in this hamlet in the northeastern part of the state have sought $700,000 from the Arkansas Economic Development Commission for a new water system. Sorry, comes the reply, there is no money in the budget.

City water in Jonesboro, Ark., doesn't stink. In fact, even wastewater flowing out of the big, new Frito-Lay plant there runs through an expanded treatment facility in order to minimize environmental problems. That expansion was part of a multi-million-dollar incentive package the state gave Frito-Lay to lure the company to Jonesboro. Frito-Lay is not exactly needy. It is a profitable subsidiary of PepsiCo Inc., the giant soft-drink and snack-food company that had sales of $20.4 billion in 1997.

Jonesboro is one of the minor casualties in the war among the states over jobs. Money is lavished on would-be employers even at the expense of some citizens' basic needs, that is the mode of state politicians and economic developers, this is a small price to pay. From a purely economic point of view, they are dead wrong. But economics and politics are seldom a rational mix.

Jonesboro got its plant after the community and state agreed to enlarge the sewage-treatment facility and provide an array of other economic incentives. Exactly how much aid was pumped into Frito-Lay is hard to find out. A Frito-Lay representative said the information was "proprietary." An aide, representative, Michaela Johnson, was equally sensitive, saying, "That whole project's confidential. We can't divulge that."

Tax cuts. Based on reports published when Jonesboro was courting Frito-Lay and on more recent information obtained from other sources, TIME estimates the value of the Frito-Lay aid package at more than $20 million. And that is in addition to $104.7 million in industrial-development revenue bonds issued by the city of Jonesboro to build and equip the potato-chip plant. The other incentives include the 149-acre plant site, a rail spur, road im-

Corporate welfare has proliferated over a decade. From 1986 to 1996

and build new cities. They lend money at bargain-basement interest rates to erect plants or buy equipment. They excuse corporations from paying sales and property taxes and release them from taxes on investment income.

There are no reasonably accurate estimates on the amount of money states shovel out. That's because few want you to know. Some say they maintain no records. Some say they don't know what's the files are. Some say the information is not public. All that's certain is that the figure is in the many billions of dollars each year—and it is growing, when measured against the subsidy per job.

In 2000 Illinois gave $240 million in economic incentives to Sears, Roebuck & Co. to keep its corporate headquarters and 5,400 workers in the state by moving from Chicago to suburban Hoffman Estates. That amounted to a subsidy of $44,000 for each job.

In 1991 Indiana gave $412 million in economic incentives to United Airlines to build an aircraft maintenance facility that would employ as many as 6,300 people. Subsidy: $75,000 for each job.

In 1993 Alabama gave $253 million in economic incentives to Mercedes-Benz to build an automobile assembly plant near

ur nation's history, the Federal Government has shelled e income tax paid by 60 million individuals and families

Tuscaloosa and employ 1,500 workers. Subsidy: $166,000 for each job.

And in 1997 Pennsylvania gave $307 million in economic incentives to Kvaerner ASA, a Norwegian global engineering and construction company, to open a shipyard at the former Philadelphia Naval Shipyard and employ 850 people. Subsidy: $361,000 for each job.

This kind of arithmetic seldom adds up. Let's say the Philadelphia job pays $35,000. And each new worker pays $6,700 in local and state taxes. That means it will take nearly a half-century of tax collections from each individual to earn back the money granted to create his or her job. And that assumes all 850 workers will be recruited from outside Philadelphia and will relocate to the city rather than move from existing jobs within the city where they are already paying taxes.

All this is in service of a system that may produce jobs in one city or state, thus fostering the illusion of an uptick in employment. But it does not create more jobs in the nation as a whole. Market forces do that, and that's why 30 million jobs have been created since 1990. But most of those jobs have been cre-

aided by small- and medium-size companies, from high-tech start-ups to franchised cleaning services. Fortune 500 companies, on the other hand, have created more jobs than they have created this past decade, and yet they are the biggest beneficiaries of corporate welfare.

To be sure, some economic incentives are handed out for a seemingly worthwhile public purpose. The tax breaks that companies receive to locate in some cities come to mind. Without them, companies might not invest in those neighborhoods. However well intended, these subsidies rarely produce lasting results. They may provide short-term jobs but not long-term employment. And in the end, the costs outweigh any benefits.

And what are those costs? The equivalent of nearly two weeks' paychecks from every working man and woman in America—even money that would stay in their pockets if it didn't go to support some business venture or another.

If corporate welfare is an unpalatable end game, why does it keep growing in a period of intensive government cost cutting? For starters, it has good p.r. and an army of bureaucrats working to expand it. A corporate-welfare bureaucracy of an estimated 11,000 organizations and agencies has grown up, with access to city halls, statehouses, the Capitol and the White House. They conduct seminars, conferences and training sessions. They have their own trade associations. They publish their own journals and newsletters. They create attractive websites on the Internet. And they never call it "welfare." They call it "economic incentives" or "empowerment zones" or "enterprise zones."

Whatever the name, the result is the same. Some companies receive public services at reduced rates, while all others pay the full cost. Some companies are excused from paying all or a portion of their taxes due, while all others must pay the full amount imposed by law. Some companies receive grants, low-interest loans and other subsidies, while all others must fend for themselves.

In the end, that's corporate welfare's greatest flaw. It's unfair. One role of government is to help ensure a level playing field for people and businesses. Corporate welfare does just the opposite. It tilts the playing field in favor of the largest or the most politically influential or most aggressive businesses. In the next story, and those that follow in the coming weeks, you will meet the beneficiaries of corporate welfare—and the people who pay for it. ■

Quinta Martin and other children in Evansville, Ark., can't drink the local water

government, a construction grant, tax credits for new employees and a 10% discount on sewer bills for the next 10 years. That sewage treatment plant, by the way, cost $7 million and it large enough to accommodate a second city the size of Jonesboro (pop. 30,000). So for each of the 300 workers at the plant, the government has invested $61,000—which is a lot of clays.

Lynn Hartley, a spokeswoman for Frito-Lay, says the company selects the general region where it wants to locate a new plant. It then prepares a set of shopping list of requirements for the facility and contacts states about incentives.

"When we need to ... build a plant, we in Jonesboro (we) look at a 250-mile radius in the center of the market" says Hartley. "We knew we needed a plant in the Tennessee-Arkansas-Missouri area. So with very detailed information, we contacted those states and gave them very specific details on what we needed ... (And) based on that, the states competed."

Meanwhile, in Evansville the campaign for clean water goes on, and the citizenry cope as best they can. Says Janie Watkins, who along with her husband runs the town's only grocery store: "If we take a bath, we don't wash clothes. If we wash clothes, you can't take a bath. Most people get a bath every day. We can't ... You get (a bath) every two days or three days, you is lucky."

Christina Stewart, mother of three small children, says her boys love to drink water. "But I don't have to tell them not to drink this water," she says. "The taste, the dirt—you wouldn't want to drink it. You put water in a glass, and you can see the dirt set-

the number of states offering tax incentives for jobs rose from 31 to 44

fit to the bottom. We don't know what's in it—we just know it's not safe."

Indeed, the Sewardis' well was tested by the Arkansas Department of Health in 1996 and found to be contaminated with particles of fecal matter "too numerous to count." The Sewardis use well water only to wash clothes, but not lightweight articles. The water turns "white things yellow," says Seward.

In order to drink, cook, bathe and wash, residents haul bottled water from nearby towns or haul up an barrels from natural springs in the hills above Evansville. Since their campaign for water begun, residents have appealed repeatedly to the state to provide a share of the $1.5 million project. "We've done everything they wanted us to do," says Kate Tweitham, who operates K.T's Cafe. "But we still don't have water."

The Evansville of America are growing in number as the job wars intensify. Since the 1980s, states have added new economic incentive programs after another to retain existing corporations and lure new ones. Even states that were refused to compete are entering course. North Carolina, which had long shunned big-ticket deals, abruptly shifted gears last summer and enacted the Economic Opportunity Act of 1996. The first two beneficiaries:

► Federal Express, the global delivery service with headquarters in Memphis, Tenn., that had 1997 revenues of $11.5 billion, will receive $115 million in state tax concessions and other economic benefits to build a hub at Greensboro, N.C.

► Nucor, a company based in Charlotte, N.C., that operates steel mills in half a dozen states and had 1997 revenues of $4.2 billion, will receive $121 million in state economic assistance to build a mini-steel mill in Hertford County in the northeastern corner of the state.

Why has North Carolina joined in the great scramble to give away incentives? The same reason all the other combatants are in it: jobs. Or at least job announcements. As John Hood, president of the John Locke Foundation (a Raleigh, N.C., public policy institute that advocates individual liberty, a free market economy and limited government), put it, "Creating jobs is not the goal of these [economic incentive] programs. The goal of these programs is to create job announcements."

And create them they do.

Said David N. Dinkins (then mayor of New York City) in October 1992, on $31 million in incentives awarded to Kidder, Peabody Group Inc.: "The decision by Kidder, Peabody demonstrates in dramatic fashion that our job retention strategies are working."

Said Jim Rout, mayor of Tennessee's Shelby County (where Memphis is located), in July 1998, on more than $20 million in incentives given to Stringfellow Steel Corp.: "These are not expenses—they're investments. These kinds of investments will pay off . . . It represents skilled, well-paying jobs."

Said Frank O'Bannon, Governor of Indiana, in March 1997, on a $1.7 million tax abatement to Crown Equipment Corp. for a plant in Greencastle, Ind.: "With at least 200 good-paying new jobs, this expansion will be an important addition not only to Putnam County's economy but to all of west-central Indiana."

Said Christine Todd Whitman, Governor of New Jersey, in May 1997, on millions of dollars passed around to two large businesses under the state's new Business Employment Incentive Program: "This is what the BEIP was meant to do, create jobs and increase opportunities for New Jersey families! . . . This is . . . a red-letter day for jobs in New Jersey!"

Don't believe it.

Jobs are created, of course, by the American economy—not by this process.

Tuer's investigators has established that almost without exception, local and state politicians have doled out tens of billions of taxpayer dollars to businesses that are in fact eliminating rather than creating jobs. Some of the money has gone to prop up individual companies and avoid the consolidation within industries that an unfettered market would bring about. Some has been pumped into profitable companies, making them more profitable. Some has been awarded to companies that have threatened to move if they don't get it. Some has been diverted to businesses that local politicians have somehow divined will be more successful than their competitors. And last, some has gone to entire industries that are shrinking.

Witness a $300,000 grant to Anchor Glass Container Corp. last year, described by Pennsylvania Governor Tom Ridge's administration as part of an effort "to retain 272 existing jobs" at the firm's Connellsville, Pa., plant.

Retain 272 jobs?

A decade earlier, in 1987, Anchor Glass employed 4,300 people nationwide—about 1,000 of them in Pennsylvania. By the time the company began making economic incentives, more than half the work force had vanished as employment plunged to 4,300. Two plants were closed in Pennsylvania. And just a few months earlier, the Connellsville plant had completed another

LAID OFF AT GENERAL MOTORS

New York State officials leaped at the chance to help GM reload an existing plant in Tarrytown in 1996 to build new engines and generate jobs. Not effect: fewer jobs now than then

WHAT WAS PAID OUT

$10.9 million in tax exemptions, training grants, reduced borrowing charges and lower power costs from the state

$3 million of property and sales tax rebates from local governments

HOW IT PAID OFF

Lost jobs. The Tarrytown plant employed 1,900 workers in 1996. A GM spokesman said the work force today is about 1,900. State and local governments then provided $60,000 in incentives for each job GM has eliminated

Corporate welfare creates far more **job announcements** than jobs

LEAN JOBS AT NEBRASKA BEEF

These workers start at about $9 an hour and may work their way up to $9 if they stick around for four years. Many don't: the turnover rate for the unskilled jobs is more than 50%

WHAT WAS FOUND OUT

$22 million to $29 million in job, tax and investment credits, grants and other assorted subsidies

$2.5 million to train workers

HOW IT PAID OFF

Low-paying jobs. Because of the high turnover rate, the training money ran out to less than a year, so more than 300 unpaid-for workers were never trained. Others continue to flee these grueling jobs.

NEBRASKA

The Job Is Meaty; The Pay Is Not

Not long ago, the state of Nebraska created an authority to dispense corporate welfare. It's called the Nebraska Quality Jobs Board. So what does the board consider a "quality job"?

Well, when do you want to go to the bathroom? In the morning or the afternoon? Pick one or the other. Not both. That is your choice at Nebraska Beef Ltd., an Omaha beef packing company and jobs-board beneficiary. Listen to a young Mexican worker—he has taken a few days off at the suggestion of a supervisor who noticed that immigration agents were coming to the plant to inspect citizenship papers. Listen as the worker describes his daily routine on the factory floor, where he wields a 8-in. knife, slashing carcasses on an assembly line that never slows.

"We call (to supervisors), 'Hey, I want to see the next man.' (They say,) 'O.K., 10 minutes. Go man.' (That's) only once a day you can get ... I love to think if I can go drink some water because I know I'm going to have to go see the next man." He continues: "We start at 8 o'clock in the morning. But I get there at 6 o'clock to just get ready, drink my coffee, work my steel ... If we work 10 hours, they give us a break at 2:30. If we was going to go some hours, they don't give us no break."

Nebraska Beef is the entity that got the breaks. The jobs board awarded the company an estimated $75 million in tax credits in 1999, as well as a laundry list of other benefits. The award was all the more eye-popping because the company had started work on its new plant before the board were created. Other aid has pushed the total value of giveaways to Nebraska Beef to between $24 million and $31 million.

An exact total is not available, since the state refuses to disclose the amount of taxpayer funds for this or any other approved project. But Nebraska does say that the tax credits were extended under programs that "could substantially reduce or even eliminate (a) company's tax liability."

When state lawmakers created the jobs board in 1985, they said it aimed "major business expansion and relocation projects needed to stimulate the growth of population and create better jobs for the citizens of Nebraska."

At Nebraska Beef, many of the workers are not citizens, in part because even hardworking Nebraskans aren't likely to come running for jobs that start at about $9 an hour for each grueling labor. Nebraska Beef employees can count on a case of 12 or 24 beer every year, they say, on the job, which means that in two years, a butcher is making $6.50. That is $17,000 a year for a 48-hr. week, about $1,200 above the poverty level for a family of four.

Not surprisingly, Nebraska Beef goes through employees the way it does carcasses: at one point, 50% of the workers who completed state training for their jobs were gone within 10 months. A review by the state auditor of public accounts showed that Nebraska Beef had sent at least a million dollars in state funds in one year to train workers who eventually left their jobs. The audit noted drily, "It would appear the number of employees no longer employed with the company and amount of money spent for job training on these individuals was not in the best interest of the state of Nebraska."

Nebraska Beef did not respond to our inquiries.

"Want to go to the bathroom? Sorry, you went this morning."

TIME NOVEMBER 1999

MEET THE REPORTERS

Donald L. Barlett and James B. Steele are senior writers-at-large for Time Inc.

For 27 years they have worked together as an investigative reporting team, first at The Philadelphia Inquirer, (1971-1997), and since February 1997, at Time Inc. Their specialty is researching, conducting and writing in-depth series on the complex issues and institutions that profoundly affect American life.

Among the subjects of their writing have been the Internal Revenue Service, Medicare Fraud, and the criminal court system, federal housing programs, the foreign crime, nuclear waste, overseas tax breaks, unethical activity by members of Congress, the Vietnam commitment and Orwell, the downsizing of America's middle class, and now corporate welfare.

What Barlett and Steele do was best described by Leonard Downie, Jr., in his book, "The New Muckrakers: An Inside Look at America's Investigative Reporters." Downie wrote that the partnership of Barlett and Steele "represents a significant step beyond traditional muckraking . . . Instead of just reporting still expansive accusations and focusing on individual corruption, they reveal with expert analysis and thorough documentation what has systematically gone wrong with the powerful, complex institutions that affect so much of life today."

> **"...almost certainly the best team in the history of investigative reporting."**
> —The Philadelphia Communications Review

The Washington Journalism Review in 1990 said, "They are almost certainly the best team in the history of investigative reporting."

Over the years, Barlett and Steele have received virtually every major national journalism award for their investigative reports, including five Pulitzer prizes. They received the Pulitzers both for national reporting in 1975 and 1989. They are the only investigative team in the country to have been honored for local, national and foreign reporting.

The University of Missouri in 1983 presented Barlett and Steele with an Honor Award for Distinguished Service in Journalism, citing them for "their resultant cutting development of investigative techniques and documentation, including their 'pioneer use of computers' . . . their ability to unearth the complex story, far beyond what most journalists typically would call complete, and their fairness and accuracy, and unusual ability to interest complex issues in ways readers can understand."

The National Council of Teachers of English honored Barlett and Steele in 1980 for having decoded, deciphered and turned into everyday English the deliberately obfuscatory language of Congress' tax-writing committees—language that concealed who was getting subsidized tax breaks. The prize: The George Orwell Award for distinguished Contribution to Honesty and Clarity in Public Language. In 1982 they received a second George Orwell Award, this time for their book, "America: What Went Wrong?"

Barlett and Steele are the authors of five books. Their first work, a biography of Howard Hughes ("EMPIRE: The Life, Legend and Madness of Howard Hughes") was published in 1979 by W. W. Norton. It was an alternate selection of the Literary Guild and subsequently was published in Canada and Great Britain.

EMPIRE received widespread critical acclaim. *The New York Times Sunday Book Review* called it "the first fully documented, credible account of a unique American life . . . the book Clifford Irving wish he had written." Dr. Frank Freidel, Charles Warren Professor of History at Harvard University, said "It is both first rate investigative reporting and excellent writing."

They second book, "FOREVERMORE: Nuclear Waste in America," was published in 1985 by W. W. Norton. It was selected by the *Library Journal* as one of the 200 best science books published that year. The Chicago Tribune wrote, "Even reformers who read dozens of books and scan their reading through 125,000 pages of documents, the authors uncovered. Down — close after close of bureaucratic mangling — and a dismal litany of duplicity, false hopes, false promises. And they sound an alarming warning."

Their third book, an expanded version of their Philadelphia Inquirer series "America: What Went Wrong?" was published in 1987 by Andrews & McMeel. It was adapted for two television specials produced by Bill Moyers. Within weeks of its publication, "America: What Went Wrong?" appeared on the best seller list of The New York Times, where it remained for eight months. Today, the book is in its 16th printing. The Chicago Sun-Times called the book "a monumental achievement . . . a book that is likely to make a difference."

The fourth book by Barlett and Steele, "America: Who Really Pays the Taxes?" was published in 1994 by Touchstone, a division of Simon & Schuster. The Chicago Tribune said that "this is a book that may engage a surgeon general's warning, aimed at those prone to fits of violent, uncontrolled anger. Even the most fatalistic of taxpayers who pay the price with a sigh and a 'what can you do?' along will feel more than a few things to bite in order their emotional equilibrium is paid." The San Jose Mercury News said that "what Barlett and Steele describe is little more than a loaded system where government paid for by the little guy takes out loans to the rich."

Their fifth book, "America: Who Stole the Dream?", due as expanded version of a Philadelphia Inquirer series of the same title, was published in 1996 by Andrews & McMeel. The San Francisco Chronicle said the book "is enough to make anyone's blood boil. It tells how politicians, lawyers, lobbyists, businessmen and special interest groups will cut the American worker."

Mr. Barlett was born in Dallas, Pennsylvania, on July 17, 1936, and he grew up in Johnstown, Pennsylvania. He attended Pennsylvania State University and served three years as a special agent with the United States Army Counter Intelligence Corps. Mr. Barlett began his journalism career in 1956 as a general assignment reporter at the Beaver (Pennsylvania) Times, and later held a similar position at the Akron (Ohio) Beacon Journal. In January 1969, he began working as a full-time investigative reporter at the Cleveland Plain Dealer, and subsequently moved to similar positions at the Chicago Daily News and The Philadelphia Inquirer before joining TIME in 1997. Mr. Barlett is married and has a son and two stepsons.

Mr. Steele was born in Hutchinson, Kansas, on January 3, 1945, and grew up in Kansas City, Missouri. A graduate of the University of Missouri at Kansas City, he began his journalism career at the Kansas City Times, where he covered labor, politics and urban affairs before moving to The Philadelphia Inquirer in 1970. After 27 years as an investigative reporter at The Inquirer, he joined Time in 1997. Mr. Steele is married and has a daughter.

SPECIAL REPORT | CORPORATE WELFARE

NEW YORK

When Factories Become Fixer-Uppers

IN THE SHADOW OF MERCEDES

Kids in Vance, Ala., are part of a school district so hard up that it relies on portable classrooms. Nearby is Mercedes' new plant, put up with a $253 million package of incentives

WHAT WAS PAID OUT

$77.5 million for roads, water and sewer lines, and other infrastructure improvements

$52.1 million to acquire the site, build the plant and construct a training school

$82.6 million in training funds, tax credits and other incentives

HOW IT PAID OFF

Crowded schools. For instance, Elementary School, it would have portable classrooms—the school isn't just it—with two a year being added to house the school's burgeoning enrollment

NEW MEXICO

Intel's Billion-Dollar Bunny Suits

Monroe County granted $26 million and watched 426 jobs disappear

SPECIAL REPORT | CORPORATE WELFARE

PHILADELPHIA

NEW MATH: $323,000 TO BUY A $50,000 JOB

WHAT WAS FOUND OUT

Divide the $107 million by 330 jobs and it turns out each job created cost local taxpayers **$323,000**.

WHEN IT STILL PAY OFF

Let's say the Philadelphia stopgaved jobs pay, on average, $50,000. That would mean that each worker pays roughly $6,700 annually in local and state taxes. It will take more than **48 years** of tax collections from the stopgaved employee to start back the money first pumped to create these jobs, and even that assumes that all 330 workers will relocate to Philadelphia from outside the city. In fact, of course, many of the workers will move from existing jobs within the city—where they already pay taxes.

Intel's taxable income increased more than 1,000% in six yea

Mayor Rendell, left, and Governor Ridge congratulate themselves on the shipyard deal

KENTUCKY

An Extra-Special Delivery for UPS

Among the variables that companies take into consideration in site selection is the labor pool. They are concerned not just with wage rates but also with the availability and quality of workers. In some states and municipalities, in partnership with business, have created industrial-education programs, mostly in community colleges. The schools' curriculums are often designed to train skilled workers for the small-town government industries.

The state of Kentucky took a different tack earlier this year when it agreed to create higher-education programs specifically designed to provide United Parcel Service of America Inc. with a steady flow of part-time workers: load and unload packages from airplanes and trucks.

Confronted with a need to build an international air hub facility and with a dwindling supply of willing workers at existing pay rates, UPS advised Louisville and Kentucky officials that it would pull 15,000 jobs out of the state if it did not receive suitable aid.

Government officials complied. On August 1st [illegible] UPS [illegible] Louisville, Indiana [illegible] Community College and Kentucky State [illegible] College. Students enrolled in what has been dubbed the Metropolitan Scholars Program will be able to earn [illegible] credit hours and two years to [illegible] degrees.

[illegible] UPS [illegible] workers. The company says, will [illegible] [illegible] that will eventually [illegible] [illegible] clerk. Class schedules [illegible] [illegible] will [illegible] UPS. The [illegible] classes will be held [illegible] [illegible] and [illegible] [illegible] [illegible] the day. Classes start [illegible] [illegible] [illegible] and New Year's Day. The company's [illegible] [illegible] [illegible] will be built to accommodate the night-working employees. Tuition will be free, with the state and other sources picking up half the cost and UPS the other half. The [illegible] [illegible] [illegible] [illegible] [illegible].

To Kentucky Governor Paul Patton, this is one for the [illegible]. "We will create [illegible] [illegible] [illegible] [illegible]," he said. To local [illegible] [illegible] [illegible] something wrong with this picture. It's [illegible] [illegible] [illegible] [illegible]

SPECIAL REPORT CORPORATE WELFARE

THE SCRAMBLE FOR JOBS

PLAYING THE ZERO-SUM GAME

ANOTHER OPENING at a subsidized plant that nearly transferred jobs from elsewhere. Here Joan Finney greets Flagstaff plant managers.

WHAT WAS PAID OUT

$13.8 million, including free real estate, a 10-year freeze on property taxes and a low-interest loan from [illegible]

HOW IT PAID OFF

0 (net). Flagstaff closed plants in Missouri, New Jersey and Georgia. New jobs created nationwide: [illegible]

Louisville, where UPS is already heavily invested. To remain competitive, UPS had no choice but to build an air hub facility somewhere else, with its without taxpayer dollars.

ALABAMA

Singing Lessons from An Auto Company

There was no question that like UPS, Mercedes-Benz was going to build a plant somewhere in the country. First of all, the U.S. is an important market for Mercedes, around, [illegible] and more. Besides, work schedules make manufacturing cars better here than in Europe.

[illegible] Alabama taxpayers essentially built and equipped a new plant for the company in the tiny town of Vance, a few miles east of Tuscaloosa. Mercedes received a package of incentives that totaled $253 million in value. For example, Alabama acquired and developed the plant site in Vance for $66 million. It used National Guard troops to clear the land and spent $77.5 million on public improvements and roads.

The Mercedes-Benz plant illustrates a fundamental principle of corporate welfare. For economic development purposes, [illegible] competitors—either with higher taxes, fewer services or both.

To understand this, go to the Vance Elementary School. Instead of a football field or two from the plant, it's empty. You can not actually see the school building. That is because it is surrounded by portable classrooms—17 in all. They are being added at the rate of two a year, [illegible] the school. The results of crowding: 540 pupils [illegible] to be 700 to 800 within the next two years, on a building designed for 200 are readily apparent—a marked contrast with the centerpiece of the $30 million training school the state built for Mercedes. Throughout the school day, students stand in line to take their turn at one of the [illegible] not [illegible] serviced by a septic system, which produces its own [illegible] comparable to sewage, since the septic tanks were also built for 200 pupils. That contrasts with the new sewer lines the state laid for Mercedes. Then there is the cafeteria. Because of the overcrowding, lunch starts at 10:30 a.m.—[illegible] long after many pupils eat breakfast. Last there is the safety issue. Vance and other schools in Tuscaloosa [illegible] tornado alley. Whenever a tornado watch is

Baxter Springs offered seven times the town budget to lure a plant

DURANT, MISSISSIPPI

WHERE IT ALL BEGAN

In 1988, as we noted in the main introduction, Mississippi entered the fray for what is now an economic, multibillion-dollar battle for jobs among the states. The idea was simple enough: lure businesses from the North with offers of cheap and abundant nonunion labor, low-priced land, minimal taxes and, for the first time, state-sponsored, no-strings industrial revenue bonds. In other words, a coordinated effort to rail other states for their corporations.

The first beneficiary was Real Silk Hosiery Mills Inc. The company, based in Indianapolis, Ind., employed 4,000 knitting-machine operators who turned out half a million pairs of hosiery weekly, which were peddled door-to-door across the nation by 11,000 sales reps. Hurt first by the Depression and then by a labor strike in 1934, Real Silk was working its way back to solvency in 1958 when Mississippi came calling.

THE UNIONS.: Real Silk Hosiery mill in Indianapolis—before the job wars

The town of Durant (pop. 2,300), a farming community with more sidewalks than paved streets, was offering to issue $35,000 in industrial revenue bonds to buy land and erect a 10,000-sq.-ft. building, which it would lease to Real Silk for 25 years for all of $1 a year. In addition, Durant would waive five years of county taxes on the building and property taxes on the machinery. On top of that, the city would provide insurance, set up a training school and even erect housing for workers. In a front-page editorial that mostly celebrated the Durant News covered that the project was a great deal for the town. In a special election, the town's voters approved the bond issue, 330 to 30. The people of Durant went in the hosiery business.

At first for a while. Indeed, nine years later, in December 1965, Durant's city leaders approved a second bond issue of $60,000 to expand the plant. At its peak, the Durant factory employed about 150 people. They worked three shifts daily, turning out 54,000 pairs of hosiery each week.

By the mid '70s, all that came to an end. Before the first bond was due to be paid off, Real Silk shut all its factories, including Durant, sold off the equipment and became an investment company. The lesson, one that has been lost on generations of mayors, Governors and Presidents, is that capital ultimately spurns rich incentives. It seeks its highest reward as determined by market forces, not political votes. The building that was to put Durant on the industrial map still stands—empty.

And Mississippi? It was the poorest state in the nation when its corporate welfare program began in 1988. Today, 92 years and hundreds upon hundreds of millions of dollars in economic incentives later, it remains dead last in per capita income.

There was one problem. The story GM floated was not true. Company executives have apologized for any misunderstanding. Previous claims aside, Mercedes agreed to exempt General Motors from taxes on $350 million worth of machinery, equipment and inventory for 10 years and to excuse the company from real estate taxes for 25 years on the planned $85 million building.

So how much did GM save? Mercedes city officials will not say, but county officials estimate GM is off the hook for $40 million in real estate and personal property taxes. GM also put the heath on the county economic-development au-

GM auctions its dwindling jobs to whichever towns bid the most

WHAT'S GOING ON HERE?

A number of readers were intrigued by the illustration for our Corporate Welfare cover (Special Report, Nov. 9), which featured a number of hands with six fingers. Some readers asked, 'What gives? Was this a hidden message? Others, like Becky Gondola of Brockton, Mass., had their own theories of the symbolism. "Does the piggy-bank character representing Big Business have extra fingers so he can give as taxpayers the 'bird' and still have five fingers left to rob us with?" wondered Gondola. Don Sorkowsie of Rhinelander, Wis., observed, "It's appropriate that Corporate Greed needs an extra finger on each hand with which to count its profits." We asked artist Roy Carruthers to explain his digital approach. "My paintings are usually strangely distorted," he told us. "The slightly surrealist trademark, the ever-too-many fingers, stems from the days when I painted oversize hands with a normal-sized number of fingers. Then later I began painting smaller hands, so I decided to use more fingers, up to seven on a hand." Carruthers admitted that he does it mainly to provoke people and get them to ask questions. He said, half-apologetically, "For me, sometimes the questions about fingers can be a lot more interesting than the answers."

L E T T E R S

YOUR REPORT ON CORPORATE WELFARE. The tax breaks and subsidies that companies get (Special Report, Nov. 9) represents the best kind of journalism. Unfortunately, government giveaways to corporations have a long, rich history in the U.S. Mining companies can still take advantage of laws enacted in the 1800s that allow special privileges. The only difference between this and the corporate welfare was reported on is that today the federal and local governments are selling off our favors at bargain rates.

David Brooks
The Blue Cross, Ill.

YOU SAY THAT WHILE CORPORATE welfare is a financial boon to some companies, it is unfair to companies that do not receive equal public tax dollars. But this misses the target. The greatest flaw is that for every dollar given by local and federal governments to middle-class corporations, there is one less dollar to support programs for workers or alleviate the plight of America's poor. The political system is part of the problem, but American economic system, based on competition for profit and primarily serving the needs of the wealthy, dictates the behavior of both the politicians and the government. Unfair tax breaks and subsidies for the rich are an essential by-product of the U.S. economic system. It's inconsistent to the political system put this one practice whenever they can get away with it—and that is most of the time.

Jack A. Smith
Highland, Ill.

THANK YOU FOR THE SERIES ON corporate welfare. Your report is frightening, infuriating and enlightening. But will anything change? Not while legislators are running up their reelection accounts. Try those attempting to find tax dollars to improve the standards of education, among all those others being cheated because of these unfair practices.

Evelyn Frame
Toledo

IN FIGURING OUT HOW LONG IT WILL take a company to pay back lost tax revenues, you should take into account the extra benefits created when the money is spent by the employees of the companies that have benefited from tax breaks. Each dollar pumped into the local economy via grocery, gas, restaurant and other purchases is also used in a variety of ways. Therefore, the amount of time it takes to "earn back" the original tax incentives given to a company will be considerably less than you indicated. The creation and saving of jobs through corporate welfare, no matter the cost, may seem unbalanced and unfair, but think of the seemingly endless consequences when jobs are lost or transferred out of the area.

Blake Gustafson
Olympia, Wash.

THE STORIES YOU TOLD OF LOCAL and state governments ignoring people's needs in the pursuit of low-wage jobs reminded me of how experience we now is at the local and state level. What's ironic, we're elected a city council that has taken a pledge to achieve no more corporate tax breaks to attract new business.

Mike Shaker
Lacon, Ill.

OUR SCHOOLS ARE FALLING APART, urban streets are deteriorating, and children go hungry while the government haphazardly showers tax breaks on incredibly wealthy corporations. I am outraged. And I have to thank you for Dollars to get a face to credit. For a home school to fund an education for my children, while all corporations have to do is just start a name that they want to "relocate" and the government falls all over itself to help out.

Christine Hubler
Bear, Delaware

YOUR ARTICLE ON CORPORATE welfare should cause all Americans to stop and think about what is going on in our country. The shame is that these powerful corporations and ambitious politicians could have devoted to upholding justice and decency, but instead they chose greed and corruption as their standard.

Virginia Wade
South Bowdoin, Ill.

THANKS AND CONGRATULATIONS ON your corporate-welfare series. Quite a number of legislators, newspapers and think tanks have been working for several years trying to focus attention on this widespread, wasteful and crippling practice. It is having a serious negative impact on our distressed urban areas, as well as diverting resources from education, research and needed infrastructure repair and maintenance. In short, it is impairing the competitive efficiency of our country, and will put us at a disadvantage in global competition in terms of price and quality. Action, of course, our foreign competitors emulate our practices.

Charles F. Dorn
Dale Street, Columbus, Ohio

thirty for a cash grant of $1 million.

GM extracted the concessions at a time when the company's profits for 1995 and 1996 totaled $11.5 billion. To put that figure in context, it would be enough money to run the West Carrollton schools, where most Moraine children attend classes, for the next 400 years. As 1997 gave way to 1998, GM dangled the possibility of yet another plant before the Moraine city fathers, and they jumped. This time the tax relief amounts to an estimated $28 million—or about $190,000 for each of the 148 new jobs to be created.

Our final note: Moraine employees will be hired under a new, three-tiered wage scale, with workers starting at about $9 an hour. Once upon a time, the starting wage for such jobs was in the double digits. Nonetheless, Mayor Roger Mathews said that "the offers in job security and lets us know GM is going to be here for a long while."

Not necessarily. Other communities have showered tax breaks on GM and its partners, assuming they would create or at least retain jobs. They were wrong. Volvo-GM, a jointly owned plant GM was the majority partner in Dublin, Ohio, in 1998—just seven years after the county cut property and income taxes in half. Some 400 jobs were lost.

The two automakers moved operations to Pulaski County, Va., where millions of dollars more in economic incentives awaited.

In 1994 and 1995, Ypsilanti Township, Mich., granted 10-year tax abatements on $250 million worth of new equipment and machinery that GM installed in its Willow Run assembly plant. On its application for the second tax abatement, GM said no new jobs would be created but 4,900 existing jobs "will be retained as a result of the project." A GM executive reaffirmed the company's commitment at a township board meeting.

But in February 1999, GM announced it intended to close Willow Run and move production to Arlington, Texas, where it got a better deal. The township responded with a lawsuit, charging that the tax abatements created a binding obligation. A local judge agreed, accusing GM of "having killed" the project of Ypsilanti and then trying to skip town. The state court of appeals reversed the decision and concluded that "hyperbole and puffery" in seeking tax breaks "does not even nearly create a promise."

In interviews with Time, GM executives say they cannot do what everyone else does. Moreover, they say, local and state governments often were calling on them. As a GM official explained, when Taiwan was considered, it was a close call, a new type of plant representing a huge investment. Once it became public knowledge what GM was planning, he said, "we received proposals from every state in the union except Hawaii and Alaska. We had file cabinets full of material from every state. . . . Every one had to be responded to. It took on a life of its own."

Yet there had to be states that knew GM could not build those jobs for logistical reasons, he said. Nevertheless, government officials submitted formal proposals so they could tell their constituents they had at least tried. "A politician always wants to be perceived as someone who tried to bring home the bacon, even if the bacon doesn't arrive."

And that is where the real blame for corporate welfare rests.

As Ohio state senator Charles Horn, a prominent critic of tax abatements, put it when commenting on concessions granted GM, "We know companies are manipulative, but it's the nature of business to get for every dollar that's legally available. Don't place the blame on the company, place the blame on government. This is government's role." **With reporting by Laura Karmen and Ruth Lilly, and research by Alan Levinovitz**

Next Week: Life with America's Biggest Sugar Daddy

TIME WARNER

WE PLAY THE GAME TOO

Like most major corporations, Time Warner Inc., the parent company of Time, has received millions of dollars in tax concessions or free services from federal, state and local governments over the years. The benefits include:

■ A $1 million-a-year exemption from Florida sales taxes on promotional items mailed from the Time Customer Service Center in Tampa, which sells and renews magazine subscriptions to Time, People, Life and Sports Illustrated.

■ A five-year freeze on real and personal property taxes in excess of $224,500 from Shelby County and Memphis, Tenn., on an operations center for cable satellites.

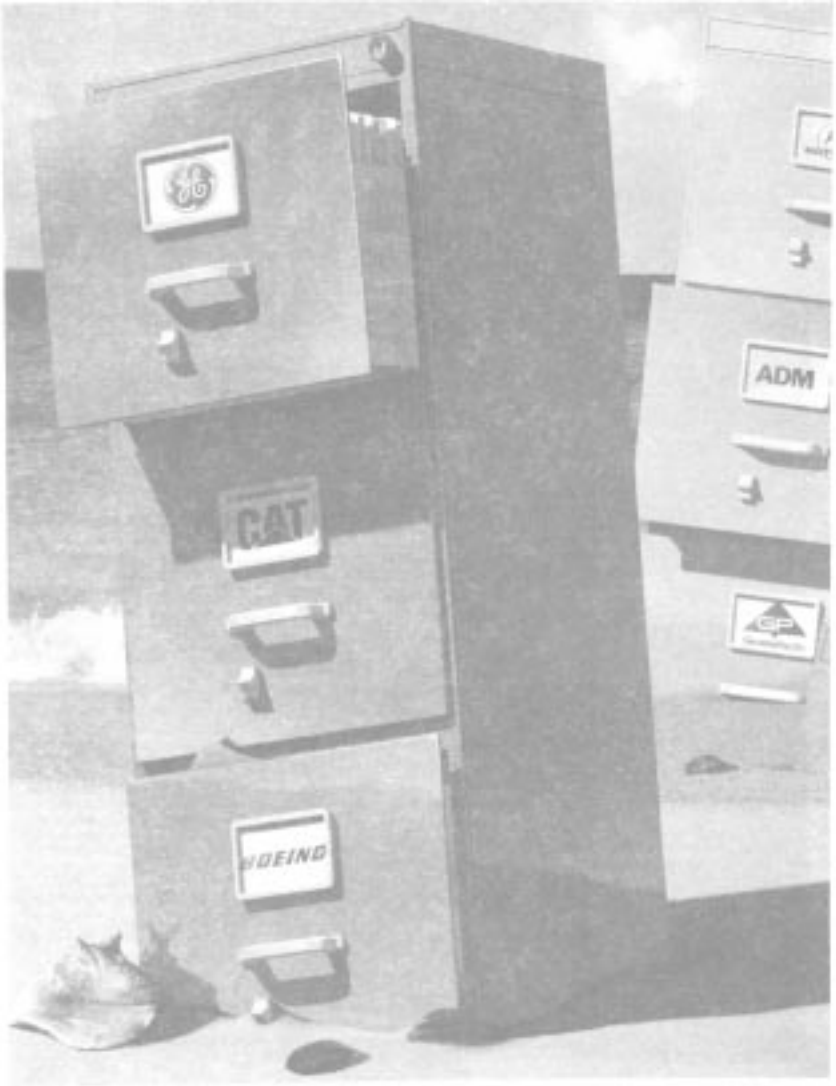
■ A rebate of $900,000 from state officials, Calif., in sales concessions (only of a warehouse for Warner Electric Atlantic Corp., a music subsidiary).

Time Warner is based in New York City, and the company is expected to ask the city for a large incentive package for building its new headquarters at Columbus Circle, on the southwest corner of Central Park. Known as Columbus Center, the $1.5 billion project has been called by one developer the "Rockefeller Center of the 21st Century." Time Warner president Richard D. Parsons confirmed that the company would ask for tax breaks—though he emphasized that the project was not contingent upon receiving them.

If Time Warner gets a special deal from New York, it will join a host of media companies that have received tax relief and other incentives worth an estimated $450 million to build new offices or to keep their work forces in New York. The list includes Grey[illegible] Brothers[illegible] A.G. which now owns Bertelsmann, Doubleday, Bantam Doubleday Dell, ABC, part of the Walt Disney Co., Condé Nast, McGraw-Hill, NBC, owned by General Electric, the New York Times Co. (the New York Post and its parent company, the News Corp., which also owns Fox, Reuters, and Viacom).

ARTIST'S VISION: New offices for Time Warner near New York's Central Park

"Companies are manipulative. **It's the nature of business."**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ADM

SPECIAL REPORT | CORPORATE WELFARE

FANTASY ISLANDS

AND OTHER PERFECTLY LEGAL WAYS THAT BIG COMPANIES MANAGE TO AVOID BILLIONS IN FEDERAL TAXES

By Donald L. Barlett and James B. Steele

FROM HER SECOND-FLOOR OFFICE MONITORING THE sparkling Caribbean at Charlotte Amalie, the capital of the U.S. Virgin Islands, Catherine Settig provides some one of the corporate-welfare system's most endearing success stories.

Settig's company represents hundreds of U.S. corporations—she won't say exactly how many—that have offshore affiliates in the islands. This isn't as demanding as it might sound. It's largely a matter of filing papers and mailing out invoices. After all, the companies she represents are just paper entities. But they have come to represent a drain, created by Congress and perfectly legal, of $1.7 billion annually on the U.S. Treasury.

It works like this:

A company sets up what is called a foreign sales corporation. Companies can form FSCs in 32 countries designated by Congress—among them Jamaica and Barbados—or in a U.S. possession like the Virgin Islands. The company then funnels its exports (or, more accurately, the paperwork for its exports) through its offshore FSC. Presto: no federal income taxes on a portion of those export profits.

Just about every large U.S. corporation has an FSC. Ford, Eastman Kodak, General Motors, Caterpillar, Union Carbide, Chrysler, R.J. Reynolds and Georgia-Pacific are just a few. And why not? A corporation with an FSC can shelter 15% to

The second in a series on corporate welfare. *The first focused on tax breaks and other subsidies local and state governments hand out to attract or keep companies. This week the subsidies that Washington doles out to corporations and the wealthy.*

For more on corporate welfare, see our website at **time.com**

Photo-illustration for TIME by Ed Kaiser

NEW THEY WERE

FOREIGN SALES CORPORATIONS

WHY The period saw calls for ever more to encourage exports and thereby reduce the U.S. trade deficit and save jobs

WHERE Most be established in U.S. possessions or one of 32 foreign countries in order to qualify for a 15% tax break on export income

WHO And U.S. firm was entitled to use, but the big dollar savings went to the large companies

YOUR COST
$1.7 Billion
and up

LIFE OFFSHORE

Postcards from Tax-Free Havens

Taxpayers have shelled out $10 billion to subsidize exporters

OLD LAWS, NEW CONSEQUENCES

THE BANK THAT NEVER CLOSES

The BOEING COMPANY of Seattle is the largest recipient of Eximbank guarantees. From 1990 through 1997, Boeing received $4.1 billion, most of it in the form of long-term guarantees to finance aircraft sales to countries worldwide. During that period, Boeing's single largest customer was China.

Other companies that benefit:

- Caterpillar
- Dresser
- AT&T
- Pratt & Whitney
- Boeing/Rocketdyne

YOUR COST $4.3 Billion

[illegible] one of the islands' largest tax managers. It employs seven people. Joseph G. Englert, president of its parent, Export Assist, Inc., San Francisco, disputes the notion that tax management companies are just paper-shuffling operations. "We help [clients] with sales," he says. "We help them with transportation. We do what they call those economic processes, and we do a fair amount, [as] documented by real money being spent in our offices ... So things really are going on."

Would large corporations export without the tax break? Well, yes. "Boeing's not going to stop the sale of a 747 just because there's no TAC," Englert agrees. "Exports would go on just like they have throughout history."

3,600 corporations, and not a one visible to the naked eye

Nevertheless, U.S. corporations have staunchly defended PICs, saying they encourage exports and make American companies more competitive with foreign producers. Jeremy Evans, chief international trade counsel for United Technologies Corp., testified before Congress last fall that PICs are "necessary to help level the playing field on which U.S. and foreign exporters compete." Further, any advocates of unlinking exports, the U.S. is merely doing what other nations do through a range of helpful export measures. Tree enough. But European companies traditionally shoulder higher taxes than American companies and help sustain elaborate social-welfare systems of the sort the U.S. has never seen. Some of them even operate under mandated employment levels. No American company gets up with that.

Furthermore, since the U.S. is a member of the World Trade Organization, it is obligated to resolve any subsidy issue before that body. That's exactly what the European Union attempted to do last November, when it filed a complaint with the WTO charging that PICs are export subsidies and thus prohibited by world trading rules. The WTO has never appointed a dispute panel to hear the charge and make a recommendation.

Meanwhile, a select few continue to reap the benefits of PICs. Only about two-thirds of 1% of corporations that file tax returns have an PIC. Of those that do, fewer than 20 big companies enjoy most of the tax benefits. Among them: AlliedSignal, Boeing, Caterpillar and Motorola, which together have escaped payment of more than $600 million in federal income taxes over the past three years, thanks to their PICs.

A relative newcomer to the PIC parade is Microsoft, which helped lobby for a Thirteenth clause in the Taxpayer Relief Act of 1997 that amounted the tax break for software makers. The result will cost taxpayers an extra $4.7 billion over the next 10 years. That's ostensibly meant to encourage Microsoft and others to export, but Microsoft is already an aggressive exporter. So the tax break is an effort a favor to encourage Microsoft to do something it already does.

Microsoft wanted—and got—what several other companies already had: the right to ship number tapes or Xbox overseas, make copies there and finance the resulting revenue back through an FSC to generate a PIC subsidy. The PIC allows the deferral, even through the manufacturing actually takes place abroad. Software lobbyists sold the change as one that would encourage the creation of high-wage, high-skilled U.S. jobs. It was U.S. although the company's workers in Ireland, who make CDs and floppy diskettes for sale in Europe, surely are grateful.

And the trade deficit, the object of these legislative exercises? The senior has run lopsided in all but one of the 26 years since the tax breaks on export income were enacted in 1971. Total deficits for those years: $2.3 trillion.

ON THE ROLL

ALLIEDSIGNAL

Beauty has convinced about the "hundreds of thousands of able-bodied people who stay on welfare for years at a time"—but his company is a major recipient of corporate welfare

Lawrence Bossidy, CEO

A COMPANY THAT THRIVES

Over the past five years, AlliedSignal's profits nearly tripled to $1.2 billion. For the earlier period, the company earned more than $6 billion.

BUT IS STILL ON WELFARE

During that same period of soaring profits, AlliedSignal received more than $250 million in state and federal corporate welfare.

FROM MULTIPLE SOURCES

AlliedSignal's export subsidies, tax breaks and guarantees to overseas lenders on real estate taxes, federal research contracts and investment in health care reform.

THE EXIMBANK

Santa Claus Lives

The year is 1934. The U.S. remains mired in the Great Depression. Unemployment seems stuck at close to 22%, and crop yields drop a third as farmers suffer the worst drought in 75 years. In one of many programs intended to revive the economy, the Roosevelt Administration established the Export-Import Bank of the United States. Its purpose: to create jobs by stimulating the sale of goods abroad. As George N. Peek, the bank's first president, explained in February 1934, "This is just one more move on the part of the President in his program to break the back of the Depression." Peek then sounded this warning: "The Eximbank has not been created for the purpose of acting as Santa Claus."

The Depression ended, the war began, the war ended, more recession and war came and went, and some six decades later, the Eximbank lives on. Santa Claus is variously an entrenched corporate welfare program for the country's largest multinational corporations.

In the world of corporate welfare, the Eximbank is among the most exclusive of the grouping clubs. A Time analysis of Eximbank loans, grants and long-term guarantees in the 1990s shows that just 10 companies account for half of the $20 billion in financial deals advertised in the bank's annual reports. They're mostly Service names: ABB Asea Brown Boveri Ltd., AT&T, Bechtel, Boeing, Caterpillar, Foster Wheeler, General Electric, Hughes Aircraft (now part of Raytheon), McDonnell Douglas (now part of Boeing) and Westinghouse. Boeing, the nation's leading exporter, was the beneficiary of one-fifth of the bank's transactions. In all, the bank subsidized $12 billion worth of the Seattle aircraft company's sales to some 20 countries, which explains why Washington insiders call it the Bank of Boeing.

Eximbank subsidies consist of loan guarantees or insurance at rates below those of traditional commercial sources. But bank officials resent the suggestion that they are running a welfare operation. They say every taxpayer dollar invested in Eximbank activities generates about $20 of U.S. exports.

Federal officials justify corporate welfare in much the same way their counterparts in state and local governments do. They say they are creating jobs. President Bill Clinton put it this way in May 1993: "Every time we sell $1 billion of American products and services overseas, we support 20,000 jobs." The following month, Kenneth Brody, president and chairman of the Eximbank, said, "The President's highest foreign priority is probably sell to Russia, and Iraq, highest priority domestically probably is jobs. When Exim is involved in Russia, we solve both problems. We provide Russia with money, they buy our products. They create jobs."

The agency was so kind to one firm, wags called it Bank of Boeing

That was five years ago. Today, of course, Russia is on the verge of collapse. As for those jobs? In 1997 a total of 16.7 million Americans were employed in manufacturing jobs, down from 19.2 million in 1990. Overall, manufacturing's percentage of the work force fell from 18% to 13%.

OPIC

Daddy's Car Loans

How would you like to get the Federal Government to invest with you in a few new ventures in the global market? Say a company that manufactures cotton and coffee in Argentina? Or a company that manufactures cars for the local firms operating in South Africa? Or a subsidiary company in Russia? For every buck you put up, the government, in the form of something called the Overseas Private Investment Corporation (OPIC), puts up two bucks. Free of all. If the deal goes sour because of a crumbling economy, currency devaluation or some other unfortunate event, you won't have to pay back the government's share.

Sound too good to be true? It is. Unless you have $1 million or more to put in the pot. That's most often the minimum investment required for one of these deals. In a small investment fall into these broad groups: wealthy individuals, institutions such as pension funds, and large corporations like GE and Citicorp.

Thus far in the 1990s, the Overseas Private Investment Corporation has established 28 funds, which have invested $2.2 billion in businesses in Europe, Asia and Latin America. The U.S. Agency for International Development (AID) has established 11 other funds with 1.4 billion taxpayer dollars. President Clinton is OPIC's best friend. During his tenure, he has increased its earmarked-for-risk ventures from less than $100 million to $2.9 billion.

In the case of AID's so-called enterprise funds, the investment million are supplied directly by you, the taxpayer. In the case of OPIC, government-guaranteed notes are sold on the open market and the proceeds are put into a fund in which private investors have contributed some of their money. A typical $150 million fund would consist of 9000 million in OPIC-guaranteed notes and 1000 million in private capital. Mark E. Vito de Weiss, deputy vice president in OPIC's investment development department, explains the process.

"It's not unlike what you were younger and you wanted to buy a car and your dad signed the bank note. He guaranteed that you would pay it back. Well, we operate on a deal for this that."

If the investments go bad, you, the taxpayer—Dad—will have to repay the note.

Who gets to sponsor or manage a government-backed or -subsidized investment fund? People who have the proper political ties or who are major campaign contributors or both. Like the Billionaire Hill brothers, whose fortune came largely from the 1994 sale of the family publishing business built by their father. Since 1996, Hill Bros. Investments has overseen a $100 million OPIC-guaranteed fund, the South Asia Capital Fund, whose purpose is to

OLD LAWS, NEW CONSEQUENCES

WATER, WATER EVERYWHERE

1996 Subsidized water now flows to scores of corporate farms in the American West. Water once earmarked for struggling family farmers goes to agribusinesses. The size of entire cities. Big farmers has the water at a fraction of its real cost.

Beneficiaries include:

- [illegible]
- [illegible]
- [illegible]

YOUR COST $5 Billion

Guess who helped pay for a bankrupt supermarket in Vladivostok?

PROFITS UP, JOBS DOWN

GENERAL ELECTRIC

Jack Welch, CEO

One of the world's best-run and most successful companies, GE has moved swiftly to become a global powerhouse

BRANCHING IN THE BOOKS

Over the past 11 years, GE's profits rose 228%—from $2.9 billion to $6.6 billion to $9.7 billion in 1997

BUT STILL ON WELFARE

GE gets export subsidies, tax credits, loan guarantees, government-research contracts and federally provided insurance for overseas projects

AND STILL CUTTING JOBS

In 12 years, GE has cut more than 120,000 jobs, reducing its work force nearly one-half

that it actually turns a profit based on the fees it charges and that it is helping to "stabilize American private sector investment" in places that advance U.S. policy and development objectives.

So that at least, is it more logical for the U.S. government to subsidize the sale of tomato ketchup to a corporation than it would be for the government to subsidize your auto insurance?

ALLIED SIGNAL

Hooked on Welfare

"Welfare was originally intended to provide temporary assistance to people who were victims of economic hardship due to circumstances beyond their control. Today there are hundreds of thousands of able-bodied people who stay on welfare for years at a time."

When so said those words in 1995, AlliedSignal CEO Lawrence Bossidy was calling for welfare reform for individuals, but he could have been talking about his very own company. Just as the cycle of poverty ensured that welfare mother lived on the dole one generation after another, corporations have perpetuated their welfare-to-work ties, despite reform efforts.

Look at Bossidy's company, which makes aerospace and automotive products and is headquartered in Morristown, N.J. Over the past five years, a time when AlliedSignal's financial numbers have been moving up smartly—profits increased 163%, to $1.2 billion, and dividends rose 83%, to $390 million—the company has collected more than $150 million in corporate welfare from federal and state governments. There have been federal export subsidies, Eximbank projects in China, India and Venezuela and research contracts with the Department of Energy. Louisiana has rewarded the company from paying nearly $2 million annually in real estate taxes. Kansas came up with a package of incentives valued between $11 million and $14 million to persuade Allied to erect a headquarters building for one of its subsidiaries in Olathe. The Indiana city of Franklin lopped 75% off the company's personal property tax bill over five years.

AlliedSignal, the worst Fortune 500 corporation in the '90s, has added to the unemployment rolls at the same time it has been collecting welfare. Over the past three years, the company has shed thousands of jobs as it acquired other companies. Right now, Allied is making a cut at AMP, a Harrisburg, Pa., producer of connectors for computers. If Allied wins, more pink slips are expected.

GENERAL ELECTRIC

Jack the Nimble Globetrotter

There is no richer example of the phenomenon of corporate welfare and outsourcing jobs than General Electric Co. In 1984 GE, both from acquiring RCA, employed 200,000 workers in 20 countries. By 1997 the number had fallen to 183,000. During the period that GE cut from 123,000 jobs in the U.S.—43% of its workforce—the company received several billion dollars in corporate welfare.

This is not coincidence. GE is arguably America's best-run large enterprise, and

A CEO takes a hard line on welfare—but not the corporate kind

GREASING THE WHEELS

ARCHER DANIELS MIDLAND

The world's largest agricultural commodity firm deals in many products, including ethanol, a corn-based fuel. Subsidies to promote ethanol have cost taxpayers $5 billion this decade

Dwayne Andreas CEO

A COMPANY THAT MAKES MONEY

Over the past five years, ADM has gathered profits of $9.6 billion. Last year alone, ADM collected revenues of $12.5 billion worldwide

... BUT STILL RECEIVES WELFARE

ADM collected more than $3 billion in corporate welfare in the 1990s and now takes in $400 million a year—more than $1 million every day

... AND LOBBIES TO KEEP IT

In this decade alone, ADM has contributed nearly $2 million to Democrats and Republicans in Congress to preserve the ethanol subsidy

ARCHER DANIELS MIDLAND

A Corny Story, but No One Is Laughing

The king of corporate welfare may be Archer Daniels Midland Co. The global agricultural-commodities dealer has certainly preserved one of the most bizarre welfare programs—a subsidy for ethanol that has already cost taxpayers more than $3 billion in the 1990s. Some $3 billion of that has gone to ADM.

In return, ADM's famously connected chairman, Dwayne Andreas, has poured a lot of money to government from both willingly and unwillingly. On the voluntary side, ADM contributed $1.8 million to both Democrats and Republicans in the 1990s. On the involuntary side, it was compelled to pay a $100 million fine to the Justice Department in 1996 after pleading guilty to rigging the market for the animal-feed additive lysine.

Ethanol is a corn-based fuel additive subsidized by taxpayers (and blended for by ADM). It is added to gasoline to reduce pollution and oil imports—although its contribution to both is really zero either. Even if every ear of corn grown on American farms were turned into ethanol, the U.S. would still have to rely on foreign sources for more than 80% of its oil. But then, of course, there would be no corn to eat or use for food. Further, ethanol uses more to produce than it can be sold for on the market, thereby necessitating a $4-a-per-gal. tax credit (also lobbied for by ADM).

Ethanol, to be sure, has a small constituency beyond ADM—most notably Midwestern farmers who grow corn. In Washington, President Clinton, Vice President Gore and Bob Dole have all lined up to protect the subsidy. Iowa Senator Tom Harkin, a Democrat, summed up the position in March 1997 when critics tried to kill the ethanol subsidy: "These incentives stimulate homegrown energy, sources without reliance on foreign oil and promote a cleaner environment."

The ethanol tax break and other corporate-welfare programs add up to $100 million a year to handouts to farmer Dwayne Andreas, which not coincidentally has given $2.5 million to GOP.

WATER POWER

Thirsty for Subsidies

Because the corporate welfare dollar amounts are so large, it can be difficult to comprehend the magnitude of the subsidies. But the time-honored reclamation program provides a good case in point. How would you like to pay to irrigate a lot of water?

Yes, even if you're a corporate welfare-lover, it pains to see big businesses would pay if they could buy water at the rate the government sells it to many Western farmers. In fact, federally subsidized water may well be the oldest corporate welfare program in America—one that preceded government welfare programs for the poor by decades. As with the Goldfarb, this program was established for a different purpose than it serves today—to help a handful of a class of farmers much more struggling than the men who now profit from it.

The Reclamation Act of 1902 was designed to open up Western land with federal water for small farmers and their families. The intent, as President Roosevelt's first reclamation chief, F.H. Newell, made clear in 1903, was to help the little guy: "It is not to irrigate the lands which now belong to large corporations ... but to reclaim ... for the family of the small owner, whereby the man with a family can get enough land to support that family."

Today many of the farms making up the subsidy are owned by the very entities

ADM's subsidies for ethanol are as high as an elephant's eye

SPECIAL REPORT CORPORATE WELFARE

SEAFLE & CO.: A CASE STUDY

THE MYSTERIOUS MIDNIGHT FAVOR

Cheap water to favored and wealthy farmers, courtesy of the Feder

STEALTH LEGISLATION: A few well-placed words enabled Searle, a subsidiary of pharmaceutical giant Monsanto, to extend its monopoly on a lucrative drug patent by two years

Home Products arranged for a friendly member of Congress to drop the so-called paragraphs into an unrelated piece of legislation, the Health Insurance Portability and Accountability Act of 1996.

Once again, the scrubbing was not to either the House bill or the Senate bill. Rather, it was slipped into the conference-committee report in the middle of the night, and again, no one noticed it at first.

Not me, that is, and Senator Edward Kennedy, Massachusetts Democrat, blew the whistle two days later. Kennedy then used his legislative power and noted that Lyons brought in $275 million a year for American Home Products. Paul Wellstone, the Democratic Senator from Minnesota, chimed in, calling "the secretive moves in which [the] giveaway was added to the legislation late at night at the expense of patients and senior citizens."

The lower-ups so great that Trent Lott, Mississippi Republican, Senate majority leader and the bill's original sponsor, ordered the offending paragraphs removed.

As it turned out, however, American Home Products never prevailed after all. Last June the company announced that it would acquire Monsanto and its G.D. Searle unit for $34.6 billion in stock. The merger, however, was unsettled and by last month both companies had doubled that it was "not in the best interests" of either.

December 1998, four months before the budget bill was passed, then Senator Paul Simon, Democrat from Illinois—the home of G.D. Searle—introduced on the floor of the Senate a bill to specifically extend Oxygen's patent protection. The bill was co-sponsored by Senator Carol Moseley-Braun, also a Illinois Democrat, and Senators John Ashcroft and Christopher Bond, both Republicans from Missouri, the home of Searle's parent, Monsanto. That bill went nowhere.

Not all drug companies are at loggerheads. American Home Products later sought to have the patent extended on one of its arthritis drugs, Lorine. Following Searle's lead, American

al Government, costs U.S. taxpayers more than $1 billion every year

SPECIAL REPORT | CORPORATE WELFARE

PAYING A PRICE FOR POLLUTERS

MANY OF AMERICA'S LARGEST COMPANIES FOUL THE ENVIRONMENT BUT CLEAN UP ON BILLIONS OF DOLLARS IN TAX BENEFITS

By Donald L. Barlett and James B. Steele

IT WAS ABOUT 5 O'CLOCK ON THE EVENING OF [illegible] 2000, when a dense gray cloud descended over Route 73, a two-lane road near Geismar, La., cutting visibility to zero and triggering a rear-end collision. As State Trooper Ross Johnson, a fresh-faced, 23-year-old Marine Corps veteran, drove toward the accident, he noted that every car headed his way had headlights on and windshield wipers flapping. When Johnson got out of his patrol car, he suddenly got hit by the heavy smell of ammonia. He ushered the drivers of the two cars out of the cloud and into a guard shack at an entrance to the Borden Chemicals and Plastics plant. "The fog was so dense I couldn't see the road," one driver told him. A plant safety officer had notified authorities about the chemical release, but he's assured them "there was no off-site impact." By then, Johnson recalled, "there was a fog as far as the eye could [see]."

After Johnson left the scene, his "throat was really starting to clench, my eyes were starting to burn, and my skin was really starting to itch." Johnson later learned that the cloud was a witches' brew of toxic chemicals: ethylene dichloride, vinyl chloride monomer and hydrogen chloride.

It had been just another day at the Borden Chemicals and Plastics plant. A month later, half a dozen similarly hazardous chemicals were released but remained on plant grounds. The following year, in July 1997, vinyl-chloride monomer and ammonia escaped from the plant and forced the closing of Route 73.

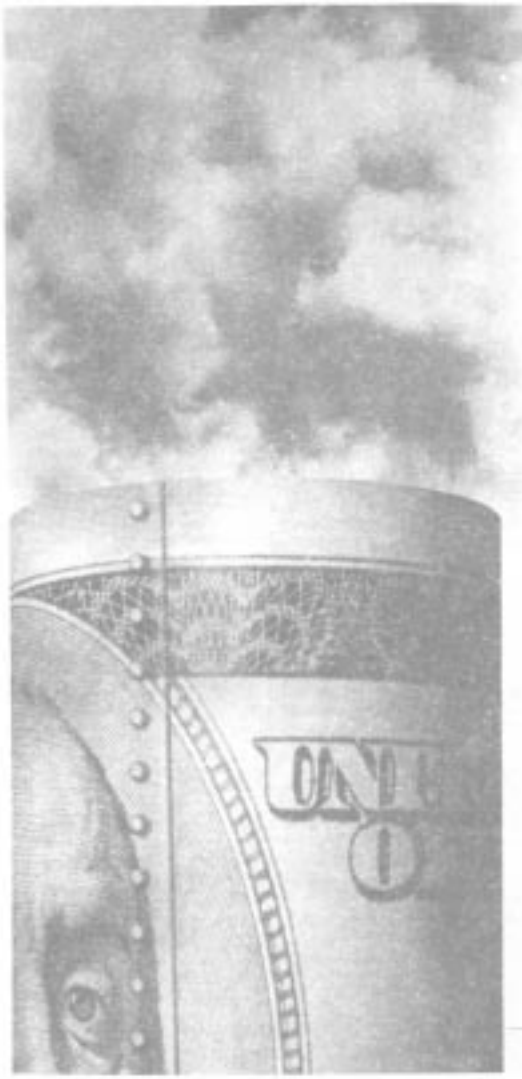
In July 1998, a cloud of hydrochloric acid spewed out, shutting down roads in the area for about 20 minutes.

Back in 1994, at the request of the U.S. Environmental Protection Agency (EPA), the Justice Department filed a lawsuit against Borden Chemicals, accusing the company of a series of environmental law violations. Among the charges: the company stored hazardous waste, dumped and sold it within illegally, failed to install emission-control systems, burned hazardous waste without a permit, neglected to report the release of hazardous chemicals into the air, contaminated groundwater beneath the plant site thereby threatening an aquifer that provides drinking water for residents of Louisiana and Texas; and shipped toxic waste laced with mercury to South Africa without notifying the EPA, as required by law. Last March, on the third day of what was expected to be a three-week trial, the company signed a consent agreement to settle the case. Without admitting any wrongdoing, Borden Chemicals agreed to pay a fine of $13.9 million—the largest in Louisiana history. The company also consented to spend $3 million to clean up groundwater contamination and dump injecting waste into underground storage wells, and to donate $400,000 for equipment for local emergency response units.

Don't weep for Borden Chemicals. It was able to pay the fine with just a couple of years' savings from shaded taxes. For most the past decade, while the plant has been fouling the land, water and air in Louisiana, the state has exempted the company from paying $13 million in property taxes as part of just one of its corporate-welfare programs. A Borden spokesman said even with the exemption, the tax the company pays to Louisiana is "about average" for Southern states. Without the exemption, he says, Louisiana would no longer be "competitive as far as trying to attract and retain" jobs.

Third in a series *on corporate welfare. Part 1 focused on tax breaks and subsidies local governments shower on companies. Part 2 on subsidies Washington hands out. This could have money is diverted to major polluters at the expense of public services.*

Photo-illustration by Joe Zeff



And who are the real beneficiaries of this exchange? One is the Wall Street buyout firm of Kohlberg Kravis Roberts & Co., one of whose affiliates "manages and controls the activities of the company," according to filings with the U.S. Securities and Exchange Commission.

Borden Chemicals, which years ago was part of Borden Inc., the milk-and-dairy-products company, is typical of scores of companies in Louisiana that receive big shakeouts at the same time they contribute to the state's polluted environment. That pollution, in Louisiana and across the country, represents corporate welfare's greatest hidden cost. Chemicals, mining wastes and a broad range of other hazardous materials have leached water, land and air across America. Billions have already been spent cleaning up environmental damage. Many more billions will be spent in coming years. Industry itself is having paid the bill. But the largest chunk will come from taxpayers—a massive corporate-welfare program.

The Federal Government, for example, has spent $100 million so far to clean up the Alamosa River in Colorado, contaminated with cyanide and heavy metals from a gold mine abandoned in 1941. The final tab is expected to reach at least $300 million. The government will eventually spend more than $300 million to clean up a site in Wayne, N.J., contaminated with radioactive waste. The company has agreed to chip in $28 million. The government estimates it will cost as much as $250 million to scrub up a nine-months site in Hightstown, Pa. The tab for cleaning up toxic-waste sites, like one in Walden Spring, Mo., is put at $900 million.

As is so often the case with environmental pollution, practices once deemed safe turn out years later to be hazardous. So it was with the PCBs used by General Electric Co. and other manufacturers of transformers. Most cost estimates for cleaning up GE's PCB contamination in the Hudson River alone range as high as $1 billion.

Add to these cleanup bills yet another cost from pollution: the billions spent on health care to treat conditions ranging from black lung disease to asbestosis. These costs are yet to be counted, it often takes years, even decades, to determine links between chemicals and other pollutants and deadly or debilitating diseases.

A Little Start-Up Called Exxon

To better understand the link between corporate welfare and pollution, let's take a closer look at Louisiana, a state that hands out tax breaks to companies that have been

THIS CHILD'S HOME in Lima, La., has polluters as neighbors. Below, the notorious Borden plant

repeatedly fined or cited for discharging hazardous chemicals or for generating large amounts of toxic waste. Louisiana has been running taxes owed by subsidy over since the Great Depression. Yet, as elsewhere, the exemptions have soared over the past decade.

This fall in the 1990s, a Times analysis shows, the state has wiped off the books $13 billion in property taxes alone. That's 14 times the amount the state owned in the 1980s and doesn't include all the other types of tax breaks granted to corporations. That makes Louisiana No. 1 in terms of subsidies per capita. Some of the big beneficiaries include Lucent Technologies, Conoco Chemical, Willamette Industries, PPG Industries and Georgia Gulf Corp. Paul Templet, a professor of environmental studies at Louisiana State University, has measured business subsidies across the country. His sobering conclusion: "The states that offer the least subsidies are doing the best from per-capita income, from poverty, you name it ... as the subsidies rise, the states essentially get poorer." What's more, Templet found, "as these subsidies rise, the income disparity ... between the rich and the poor rises."

Plenty of states gave out tax breaks, of course, even to polluters whose mess taxpayers must later clean up. But Louisiana's incentive program has an odd twist: the tax abatements are intended to help start up businesses. The purpose of the industrial-tax exemption program, in the state's own words, is to offer "to industry certain tax benefits at the most critical stage of any business endeavor — the beginning."

So what are some of these "beginning" businesses? Over the past 10 years the state extended $221 million in industrial property taxes owed by Exxon Corp., a company that traces its origins back 130 years. It eliminated $140 million in taxes owed by Shell Oil Co. affiliates, a business whose roots in the U.S. go back 80 years. It erased $102 million in taxes owed by International Paper Co., which opened its doors 100 years ago. And it voided $98 million in taxes owed by Dow Chemical Co., which was established 101 years ago.

While government officials across the country publicly embrace tax-abatement programs like Louisiana's, the employees involved in the actual administration of them are often quietly critical. In Louisiana, as in other states, Times interviews found those entrusted by the enabling handouts but fearful of losing their jobs and powerless to stop the process. A Baton Rouge state official, who agreed to talk anonymously, said some companies today position a form of "extortion" in Louisiana—they demand tax breaks yet give back very little in return. At one time, he said, corporates might actually create new jobs in exchange for the abatements. "Today the corporations may add two or two new jobs for every million [dollars in abatements they receive]," he said. "That's not fair." Even when a company does create "100 new jobs, it takes a place somewhere else and 100 people lose their jobs," he added.

But he is quick to say that Louisiana on its own cannot stop the handouts if other states don't join in. "We'd be killed."

Today's Lesson: Rats Do Bite

When government distributes handouts to select companies, someone else pays, either in higher taxes or in reduced services, among the nation's most economically vulnerable children, who attend public schools. In some Louisiana parishes (counties), 80% or more of the industrial property taxes goes to education. So every tax break granted to a company translates into less money for schools. Consider the consequences of that policy for the 36,000 students in the East Baton Rouge Parish school system, the state's second largest after New Orleans. Everyday, many of them face some or all of these afflictions: rot-infested roofs with holes in them; buildings whose antiquated wiring will not permit more than a few computers to work at one time; walls so damaged by water leaks that paint will not adhere to the plaster; floors so rotted that children put their feet through them; long lines to use outmoded bathrooms; sewage backups in classrooms; asthma and respiratory illnesses as a result of mildew and fungus in ancient air ducts; falling ceiling tiles; broken and unsafe sobbing partitions; unusable playgrounds; broken chairs; carpets that smell from the repeated leaks and flooding.

Cindy Jones, an assistant principal, says, "It's astonishing ... that people actually have to come to work and to learn in this kind of environment." Adds John McCann, principal of the 1,000-student Woodlawn High School, arguably the most dilapidated building in the district: "Teachers, they get run-down. It hurts

A million dollars in corporate welfare may add one or two jobs

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Tax Loopholes from A to Z

From Citizens for Tax Justice, a public interest research and advocacy organization focusing on federal, state and local tax policies and the impact upon the United States

http://www.ctj.org/html/hidcorp.html

"Corporate Welfare", and Handouts to Wealthy Cost Over Twice the Budget Deficit

Also from Citizens for Tax Justice

http://www.ctj.org/html/up42.htm

More Corporate Giveaways High on Congressional Agenda

Also from Citizens for Tax Justice

http://www.ctj.org/html/cgive97.htm

The Federal Reserve Bank of Minneapolis

From "The Economic War Among the States," found in Minnesota, a web-site memorial on Corporate Welfare

http://woodrow.mpls.frb.fed.us/pubs/econwar/

Minnesota Public Radio

Also part of "The Economic War Among the States"

http://news.mpr.org/features/199605/01_wittl_econwar/

Ohio State Senator Charles F. Horn

Also part of "The Economic War Among the States"

http://www.geocities.com/CapitolHill/2817/econ.html

How Corporate Welfare Won

From the Cato Institute, a conservative public policy research foundation headquartered in Washington, D.C.

http://www.cato.org/pubs/pacific/pa-254.html

The Advanced Technology Program and Other Corporate Subsidies

Also from the Cato Institute

http://www.cato.org/testimony/ct-im060397.html

Federal Aid to Dependent Corporations

Also from the Cato Institute

http://www.cato.org/pubs/wtpapers/corpwelfare-es.html

All links can also be found on the TIME.com website at:

http://cgi.pathfinder.com/time/magazine/1998/dom980809/links.html

their mouths. They're tired of coming to school and getting wet when it rains." McCann means, of course, that teachers are tired of getting wet inside the school—not outside.

Sometimes the flooding occurs at inopportune moments, like the time students sat down to take a state-required test that determines whether they will graduate. "We went to classrooms containing cots with those big wet vats," McCann recalled. "The kids were supposed to be trying to take an exam to see if they can get out of school. Well, we had to stop [the test] ... and we had to move some kids out of [the] classrooms."

McCann's school was built long ago on a geological fault and is now cracking—literally. The auditorium, band room and choir room are all limits because they have been condemned.

None of this is to suggest that corporate welfare alone is responsible for the plight of the state's schools. While it certainly is one of the contributing factors, there are others. For example, at the same time the state passes out tax breaks wholesale, it does not contribute one cent to building construction or other capital needs of schools, as many other states do. All of which helps explain why Louisiana ranks 45th in the nation in spending on elementary and secondary education.

As if conditions inside Baton Rouge schools were not bad enough, students and teachers must also contend with pollution alerts. Listen to assistant superintendent Christine Arata describe life near the petrochemical plants:

"Certain schools are in wind patterns from chemical plants, and they have as part of their safety drill what's called shelter-in-place, where all the windows in the buildings must be shut, the doors sealed in a special way. No one can go outside. They stay right there until it's cleared.

"Well, we had a large overturn up on the north end of the river last year that was about a three- or four-day emergency, and we had kids sheltered in place for hours and hours and hours and had to wait for the wind to shift so we would be permitted to take the buses in and get out as many children as we could before the wind pattern changed again. Amazing. I thought to myself, I didn't know when I took this job that I would be reserved a hard hat and a gas mask."

LOUISIANA

THE $29 MILLION JOB

LIKE ALL STATES THAT PRACTICE CORPORATE welfare, Louisiana argues that tax breaks help create jobs. But do the math, and you'll discover that the real cost of adding new jobs doesn't add up.

The Biggest Recipients

Companies ranked by total industrial property tax exemptions, 1992-97

COMPANY	JOBS CREATED	TOTAL TAXES ABATED
1. Exxon Corp.	395	$213,000,000
2. Dow Chemical/Dow Corning	167	$160,000,000
3. International Paper	172	$121,000,000
4. Boise Chemical Co.	9	$90,000,000
5. Solvay Fortiflex	180	$53,000,000
6. Boise Cascade Corp.	74	$53,000,000
7. Georgia-Pacific	200	$40,000,000
8. Willamette Industries	504	$45,000,000
9. Procter & Gamble	14	$44,000,000
10. TheMatrix Petrochemical	100	$43,000,000

The Costliest Jobs

Companies ranked by total cost of each new job (total tax abatement divided by jobs created)

COMPANY	JOBS CREATED	COST PER JOB
1. Mobil Oil Corp.	1	$28,300,000
2. Dow Chemical Co.	9	$16,700,000
3. Rio Corp.	5	$6,300,000
4. BP Exploration	6	$4,800,000
5. Procter & Gamble	14	$3,300,000
6. Murphy Oil USA	10	$3,000,000
7. Star Enterprise	9	$2,300,000
8. Cytec	13	$1,900,000
9. Mallard USA	33	$1,300,000
10. Uniroyal Chemical Co.	22	$900,000

Very Blackened Redfish, Anyone?

Each year the EPA compiles a catalog of the toxic chemicals discharged into the environment. Congress enforced the accounting after a deadly cloud of chemicals escaped from a Union Carbide plant in Bhopal, India, in 1984, killing thousands of people—and after the company released a smaller quantity of an equally toxic gas from its plant in Institute, W.Va., less than a year later.

Let's look at five companies in Louisiana that have earned spots on the EPA's list of the Top 50 companies measured in volume of chemical releases across the country. The five also happen to be beneficiaries of direct corporate welfare.

- Cytec Industries Inc. ranked No. 1 in the release of toxic chemicals in Louisiana during 1996. The company pumped 24.1 million lbs. of chemicals into walls and the air. The company also ranked No. 5 on the EPA's Top 50 list of companies that spewed the largest volume of toxic materials nationwide. Cytec, based in West Paterson, N.J., is a global chemical company with sales of $1.3 billion. And it has a friend in Louisiana, which has excused it from paying $20 million in local property taxes on machinery and equipment over the past decade. Records of the State Department of Economic Development show that the company created exactly 13 jobs during that period—meaning taxpayers shelled out $1.5 million for each additional person hired by Cytec.
- IMC-Agrico Co., at 12.8 million lbs., placed No. 3 on the EPA list of largest generators of toxic chemicals in Louisiana. Nationwide the company ranked No. 20. Louisiana has excused the company from paying $35 million in property taxes over the past decade. IMC-Agrico is a subsidiary of IMC Global Inc., a firm with sales of $3 billion in 1997.
- Rubicon Inc., a Geismar, La., chemical company, ranks No. 4 on the EPA's Louisiana chemical-release list—No. 34 nationwide—at 9.4 million lbs. Louisiana has exempted the company from payment of $9 million in property taxes over the past decade. Rubicon is a joint venture of Uniroyal Chemical Co., with 1997 sales of $1.2 billion, and Imperial Chemical Industries PLC of London, with sales of $15 billion. Uniroyal itself has received $20 million in tax abatements on its Louisiana plant.

When it rains, students and teachers get wet—inside the school

SPECIAL REPORT | CORPORATE WELFARE

● Monsanto Co., the global chemical and pharmaceutical company, holds fifth place on the Louisiana toxic-chemical-release chart at 7.7 million lbs. Nationally the company ranks 36th. Louisiana has excused Monsanto from payment of $33 million in property taxes over the past decade.

● Angus Chemical Co. placed No. 6 on the Louisiana chemical-release list at 6.3 million lbs., and No. 69 nationwide. Louisiana has excused Angus from payment of $12 million in property taxes over the past decade—pennies compared with taxes. But Angus has a special distinction: in 1991 an explosion ripped through the Angus chemical plant in Sterlington, La., killing eight workers and injuring more than 120. Clouds of toxic gas killed the air, and shock waves damaged a nearby hospital, a school and homes.

In addition to saving $300 million in property taxes, the five companies—along with thousands of others—have profited from the failure of federal and local governments to impose more stringent controls on the release of lethal chemicals. Count it, at the very least, in the tens of millions of dollars.

Meet the Man with 41 Bathrooms

This brings us to the company that has earned the top spot in the country on the EPA's toxic-chemical roster: Magnesium Corp. of America in Rowley, Utah. The company has been at first place for the past two years. In 1996 it pumped 65.3 million lbs. of chemicals into the air. That was up from 64.3 million lbs. the year before. On average, the Utah plant spews 123 lbs. of toxic chemicals into the air every minute, 24 hours a day.

Who cares that bad business?

A holding company called the Renco Group Inc., which, in turn, is owned by Ira Leon Rennert, until recently a relatively anonymous New York City investor. Renco, with offices in Rockefeller Center, is a conglomerate of sorts, the far-flung parts of which seem to share a common thread: they're out of compliance with pollution laws.

WCI Steel Inc., a Renco holding, has been battling the EPA in federal court for the past several years over alleged environmental violations at its Warren, Ohio, plant. In a series of civil lawsuits, the agency has charged that the company "has operated hazardous-waste management units at the facility" without permits; that it has stored hazardous waste in ponds that did not meet "minimum technological requirements"; and that it has discharged zinc, copper, lead, cyanide and other pollutants above allowable levels into the Mahoning River. The government is requesting that from that

ARIZONA

WHAT'S THAT ROTTEN SMELL IN PHOENIX?

It's not always easy being a part of the global economy. It's especially not easy when your city offers corporate welfare to an overseas company to come in and pollute your neighborhood.

That's what happened last year, when Phoenix lured overbudgeted to attract a silicon-wafer plant operated by Sumitomo Sitix of Japan. Ever since, complaints have rolled in from Sumitomo residents. Complaints about the hydrogen phosphide drifting from the plant smokestack, the rotten-egg odor that perfumes the neighborhood, the 11,000-gal. acid spill, the use of toxic chemicals in a residential area.

Maricopa County authorities responded by levying a $300,000 fine on the plant. Only $200,000 of that was a penalty. The company was asked to spend the other $100,000 trying to eliminate the rotten-egg odor and monitor the plant.

The company is part of the giant Japanese Sumitomo Group, which had annual revenues in 1995 of more than $120 billion—more than all but a handful of American companies. As for the $120,000, that worked out to about one-tenth of 1% of the settlement. The company was given to move to Phoenix in the first place—an abatement of tax breaks, city services and other deals sweetened by the city and state.

For the first five years, Sitix Sumitomo is paying $70,500 to rent the 105-acre site from the state. That works out to $672 an acre. Later, the rent rises to $2,048 an acre. Not bad for an area where an acre sells for $50,000 to $100,000.

In addition, the city of Phoenix came up with $7 million for water, sewer and street improvements. It also sponsored the company's application to have the plant site designated a foreign-trade zone by the U.S. Department of Commerce. That saved the company $6 million in local taxes in 1998 alone. That number could hit $10 million a year when the plant reaches full capacity.

Foreign-trade labor zones created in 1934 "to create employment [that] might otherwise have been carried on abroad." But Sumitomo had already decided to build a U.S. facility in 1989; the only question was where.

How did all this come about?

With great stealth.

A "confidential memorandum" prepared in June 1995 by the Greater Phoenix Economic Council cautioned, "The company has made it very clear that it wants no more news stories in Arizona publications, and has asked us to assign a code name for the project."

And then there was the letter from the city assuring Sumitomo that the company would remain anonymous during the rezoning process. It read, "Sumitomo ... will not need to participate in the rezoning process and will not be identified."

All that was in keeping with the tone set by then Governor Fife Symington in a two-page letter to Sumitomo in May 1996. The Governor assured the company that promised reduced real estate and other taxes would "have no unrelated exposure date" and that acquisition of the site would be handled "confidentially." Clearly, he promised, will be "your partner."

Two years later, Symington resigned from office, convicted of bank- and wire-fraud charges, unrelated to Sumitomo, after he admitted false financial statements to secure tens of dollars in loans as his real estate empire was collapsing.

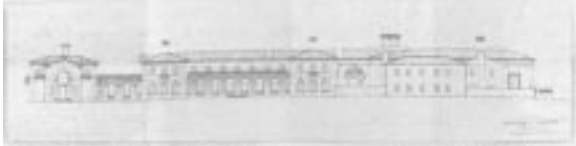
Today, Symington is free on appeal of a 30-month prison sentence. And parts of Phoenix still smell like a rotten egg. ■

One plant spews 123 lbs. of toxic chemicals a minute into the air

TIME, NOVEMBER 22, 1999

SPECIAL REPORT | CORPORATE WELFARE

ISA PIONEER: His company, right, is first on the EPA's list of toxic-chemical releasers. Below, blueprints for Bennett's mansion under construction in Sagaponack, N.Y.



could run upwards of $20 million be imposed on Bennett's company.

WCI Steel also happens to be a recipient of some generous corporate welfare. Trumbull County, Ohio, records show that in 1997, the company was exempt from paying $199,000 in real property taxes and $692,000 in personal property taxes. Protestors show that the company, over the life of its agreement with local authorities, will save $20 million in real and personal property taxes. There are two ways to look at that: Bennett's company will get a pass on 75% of its $20 million tax bill, or its tax breaks nearly equal the fines the EPA is seeking.

Let's look at another Bennett holding, the Doe Run Co., based in St. Louis, Mo. Doe Run operates the world's second largest lead smelter in Herculaneum, Mo., 30 miles south of St. Louis. A massive complex encompassing 170 acres on the banks of the Mississippi River, the Doe Run smelter operates seven days a week, 24 hours a day, and turns out 250,000 tons of refined lead a year for storage batteries and other products.

Like Bennett-affiliated operations in Ohio, the Herculaneum smelter fails to meet air-quality guidelines. In Injunction and Enforcement Government filings, the company has acknowledged that "the area surrounding the Herculaneum smelter currently is out of compliance" with federal air-quality standards for lead. That's earned the Doe Run smelter the 37th spot on the EPA's Top 33 list of companies that release the most toxic chemicals in America.

The ensuing trouble's surprise the townspeople who live in the shadow of the smelter and experienced its periodic discharges of blue-black smoke long before Bennett bought the plant—and still do today. Tom Bryant, a city employee, recalls times when emissions engulfed the town during Friday-night high school football games. "The smoke was so bad you couldn't see the ball," he says. Another resident, Michelle Davis, remembers one such night within the past year when she was leaving city hall after a meeting. "It was like there was a fog out there," she says.

Townspeople speak of children and adults who are "loaded," the local term for those who have higher than normal levels of lead in their body. Lead poisoning has long been known to have serious health effects, especially in children, including decreased intelligence, slow growth, impaired hearing and brain damage.

Dale and Michelle Richardson used to live in a house next to the Doe Run smelter. When tests revealed that their young son and daughter had higher than normal levels of lead in their body, Doe Run dispatched workers to decontaminate the house. "They sent people over to vacuum the house," sniffs Dale Richardson. "They were saying, 'Don't let the children go outside.' Now they knew that wasn't going to happen. You can't keep children from going outside."

Doe Run eventually bought the property, demolished the house and carted off the debris and soil around it. The Richardsons bought another house in town and have joined other residents in suing Doe Run and the smelter's previous owners for being "negligent and careless" in operating the smelter by allowing "hazardous and dangerous toxic metals and substances to come into direct physical contact" with townspeople. Doe Run is contesting the lawsuit and says in its defense that it's "working with regulators to develop a new three-year compliance plan to implement the offsite control measures."

The usually low-profile, 84-year-old Bennett has stirred controversy of another sort in another location—the Hamptons, the enclave of the rich and famous at the eastern end of Long Island, N.Y. He's not pumping lead into the air there, but he is building a house on a 61-acre tract facing the ocean—a house that will be not only the largest on Long Island but one of the largest in the country. At 80,000 sq. ft.—about the size of 10 football fields—Fife Field will dwarf even the new $70 million home of Microsoft's Bill Gates, which is a mere 40,000 sq. ft.

When completed, the many-dwelling in the Bennett villa—it's classed as a single-family home—will boast an art gallery, two libraries, three dining rooms, 11 sitting rooms, quarters for more than a dozen servants, 23 bedrooms and 41 bathrooms. To service such accommodations, Fife Field will be equipped with eight septic tanks, four water tanks for heating, cooling and firefighting, two diesel-fuel storage tanks and one unleaded-gasoline storage tank.

The cost? Somewhere between $30 million and $100 million. Less than Bennett's companies receive in corporate welfare. —*WSI reporting by Laura Parnell and Aisha Labi, and research by Joan Lichtenstein*

Next Week: *Empire of the Pigs*

At the football games, the smoke is so bad you can't "see the ball," and

SWEET DEAL

WHY ARE THESE MEN SMILING? THE REASON IS IN YOUR SUGAR BOWL

SUBSIDY BARONS: Alfonso, left, and Jose Fanjul of the Palm Beach offices of their Flo-Sun Inc., a major sugar producer

OCCUPYING A BREATHTAKING SPOT on the southeast coast of the Dominican Republic, Casa de Campo is one of the Caribbean's most elegant resorts. It bills itself as "a hunter's and sportsman's dream," and that's truth in advertising. The place has 14 swimming pools, a world-class shooting ground, PGA-quality golf courses and $1,000-a-night villas.

A thousand miles to the northwest, in the Florida Everglades, the vista is much different. Chemical runoff from the corporate cultivation of sugar cane imperils vegetation and wildlife. Polluted water spills out of the glades into Florida Bay, turning a shimmering green-rich haven into a murky brown where fishing once thrived.

Both sites are the by-product of corporate welfare.

In this case the beneficiaries are the Fanjul family of Palm Beach, Fla. The name means nothing to most Americans, but the Fanjuls might be considered the First Family of Corporate Welfare. They own Flo-Sun Inc., one of the nation's largest producers of raw sugar. As such, they benefit from federal policies that compel American consumers to pay artificially high prices for sugar.

Since the Fanjuls control about one-third of Florida's sugar cane production, that means they collect at least $80 million a year in subsidies, according to an analysis of General Accounting Office calculations. It's the sweetest of deals, and it's made the family, the proprietors of Casa de Campo, one of America's richest.

The subsidy has had one other consequence: it has helped create an environmental catastrophe in the Everglades. Depending on whom you talk to, it will cost anywhere from $2 billion to $8 billion to repair the Everglades by building new dikes, correcting canals and digging new holes.

Growers are committed to pay up to $240 million over 20 years for the cleanup. Which means the industry that created much of the problem will have to pay only a fraction of the cost to correct it. Government will pay the rest. As for the Fanjuls, a spokesman says they are committed to pay about $4.3 million a year.

How did this disaster happen? With your tax dollars. How will it be fixed? With your tax dollars.

It is not news that sugar is richly subsidized, or that the Fanjuls have profited so handsomely. Even as recently as 1985, when Congress passed legislation to phase out price supports for a cornucopia of agricultural products, raw sugar was spared. Through a combination of loan guarantees and tariffs on imported sugar, domestic growers like the Fanjuls are shielded from real world prices. So, in the U.S., raw sugar sells for about 22¢ a pound, more than double the price most of the world pays. The cost to Americans at least $1.4 billion in the form of higher prices for candy, soda and other sweet things of life. A case study, moreover, has estimated that nearly half the subsidy goes to large sugar producers like the Fanjuls.

A spokesman for Flo-Sun, Jorge Domenech, said the company disagrees with the GAO's calculation on the profits the Fanjuls and other growers derive from the program.

"That is supposed to imply somehow that our companies receive $80 million in guaranteed profits," he said, "and that is flat-out not true. Our companies don't make anywhere near that kind of profit."

Domenech, like other proponents of the sugar program, contends that it does cost taxpayers a penny and is not unlike government protection of other American industries. "If our [sugar policy] is corporate welfare, which I don't believe it is, then all trade policy is corporate welfare," he says.

Flo-Sun is run by four Fanjul brothers, Alfonso ("Alfie"), Jose ("Pepe"), Andres and Alexander. Their family dominated Cuba's sugar industry for decades, and they came to this country with their parents in 1959, after Fidel Castro seized power. The Fanjuls arrived just as a U.S. Army Corps of Engineers project to control the flow of water in the Florida Everglades made large-scale development possible.

parents tell of children who have been "leaded" by the nearby smelter

From natural disasters to politics,
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The total acreage planted in sugar cane there soared—from 50,000 acres in 1960 to more than 420,000 today.

Within that swampy paradise lies yet another subsidy. Each year, according to a 1997 estimate, the Army Corps of Engineers spends $65 million to control water flow in central and south Florida. This enables growers to obtain water when they need it or reverse the flow during heavy rains. Of the $65 million, the Corps estimates $22 million is spent on agriculture, mainly sugar-cane farmers, in the Everglades.

CASA DE CAMPO: The Fanjuls' luxurious resort features grouse hunting, polo, $4 salivating pools—and more

Even with the additional production from the Glades, propped up by price supports, the U.S. can't produce all the sugar it needs. The Federal Government tallies sugar to the lucrative U.S. market by assigning quotas to 40 sugar-producing nations, most of them developing countries. And, remarkably, the Fanjuls have found riches here too. Every year, the country that receives the largest sugar quota is the Dominican Republic. It sits a per-capita income of $1,600 a year and an unemployment rate hovering around 20%, that Caribbean nation needs all the economic help it can get. And who is the largest private exporter of Dominican sugar? The Fanjuls, thanks in part to their long-standing relationship with the Dominican Republic's politicians. Through a subsidiary, Central Romana Ltd., the brothers grow sugar cane and operate the world's largest sugar mill there. The profit margin is substantial, partly because cane cutters on the island earn about $100 a month, making production costs much lower than in Florida. From their Dominican plantation the Fanjuls export roughly 100,000 tons of raw, duty-free sugar each year to the U.S.

Whether they sell sugar from their holdings in the Everglades or from their mill in the Caribbean, the Fanjuls are guaranteed a U.S. price that is more than double anywhere else in the world. As might be expected, having it both ways has propelled the Fanjuls into the ranks of the richest Americans. Their wealth is counted in the hundreds of millions of dollars.

And although they appear frequently in the society pages, the Fanjuls won't be caught dead in the financial section. As Emilio Fanjul, the wife of Pepe, once confided to a society reporter, "We like to be private about the business."

Depending on the season, the Fanjuls can be found shooting game in Scotland, skiing in Switzerland or relaxing at their spectacular Casa de Campo. Those 7,000 acres overlooking the sea have long been a favorite playground of the wealthy. But Palm Beach is still their real home, and Florida is still the heart of their financial empire. They now farm an estimated 180,000 acres of cane-producing land in the Everglades—43% of the total—making them one of the two largest sugar growers in the state.

For decades, this region has been home to one of the worst jobs in America—backing cane with a machete. Until the week was mechanized in the 1950s, the growers had to bring in thousands of cane cutters from the Caribbean every season. Yet in preserving the subsidy that has made millionaires of the Fanjuls, Congress has cited the fact that it saves American jobs.

Migrant-labor organizations and legal aid groups in Florida have long waged an ongoing battle with the Fanjuls and other growers over the abysmal conditions. Greg Schell, an attorney with the Migrant Farmworker Justice Project in Belle Glade, Fla., contends that of all the growers, the Fanjuls have treated their workers the worst. "They are in a class by themselves," he said. A lawsuit seeking back wages and benefits is expected to go to trial next spring.

Every few years, critics of the sugar program attempt to roll back the subsidy that has enriched the Fanjuls and kept sugar prices high. And every time they fail, largely because of the power of the sugar lobby, which includes not just huge growers like the Fanjuls but thousands of small sugar-beet farmers in other parts of the nation.

Though by no means the largest special interest in Washington, the sugar lobby is one of the most well-heeled. And among growers, the Fanjuls are big givers. Family members and corporate executives have contributed nearly $1 million so far in this decade, dividing the money fairly evenly between political parties.

This reach far covering all political bases carries all the way to the top of the Fanjul empire. Alfonso Fanjul served as co-chairman of Bill Clinton's Florida campaign in 1992. His brother Pepe was national vice chairman of finance for Bob Dole's presidential campaign in 1996 and was host to a $1,000-a-head fund raiser for Dole at his Palm Beach mansion. After Clinton's 1992 victory, Alfie was a member of the select group invited by the Clinton camp to attend the President-elect's "economic summit" in Little Rock, Ark.

Careful readers of Kenneth Starr's impeachment report to Congress will note that on Feb. 18, 1998, Alfie called President Clinton while the President was closeted with Monica Lewinsky in an emotional meeting in the Oval Office. After breaking the news that "their intimate relationship" would have to end—temporarily, as it turned out—the President returned Fanjul's call; Lewinsky left. The two spoke for 12 minutes. The topic: a proposed tax on sugar farmers to pay for the Everglades cleanup. Fanjul reportedly told the President he and other growers opposed such a step, since it would cost them millions. Such a tax has never been passed.

That's success. ■

The subsidy that wouldn't die: why we pay double for sugar

SPECIAL REPORT | CORPORATE WELFARE

THE EMPIRE OF THE PIGS

A LITTLE-KNOWN COMPANY IS A MASTER AT MILKING GOVERNMENTS FOR WELFARE

By Donald L. Barlett and James B. Steele

"THIS IS QUITE A CHRISTMAS PRESENT," SAID HARLAN NELSON, then mayor of Albert Lea, Minn., on that December day in 1990 when he learned that a closed factory in the town would reopen. "Fairy tales do come true!"

The fairy godmother turned out to be Seaboard Corp., a giant of agribusiness with headquarters in Merriam, Kans., and controlled out of Chestnut Hill, Mass. Seaboard officials announced that they would restart the shuttered pork-processing plant that had once been the town's largest employer—if the city offered a little help. Albert Lea responded by giving Seaboard a $2.9 million low-interest loan and a special deal on its sewer bill and grading and paving parking lots for

PIGS PILE UPON PIGS in the holding pens at a Seaboard hog "farm" in Guymon, Okla., a town that paid dearly to attract the company. Exclusive Harry Brooky, left, runs Seaboard

employees. And before long, the plant reopened, and several hundred workers were back on the job.

That's when the process began by which the fairy tale turned into a very bad dream. Just four years later, in 1994, Seaboard phased out the plant and moved its hog-slaughtering operations to another town 900 miles away, which came up with an even larger corporate-welfare package. Albert Lea was left saddled with debt, higher utility bills and an abandoned slaughterhouse. The entire episode, says City Manager Paul Sparks, was a "disaster."

This is the story of how an extremely resourceful corporation plays the welfare game, maximizing the benefits to itself, often to the detriment of those who provide them. It's also a vivid reminder to cities and towns everywhere about the potential long-term liabilities they may one day face by spending public funds to get results that are best achieved by the free market.

Seaboard is a publicly owned company, but in fact it is the fiefdom of a reclusive Boston-area family (more on that later). A sort of mini-conglomerate, Seaboard has interests in hogs, strawberries, chickens, shrimp, salmon, flour and wine. Its operations span five continents and nearly two dozen countries and range from cargo ocean liners to supermarkets. And like other profitable businesses, it collects subsidies—or, more accurately, corporate welfare—from local, state and federal governments. Indeed, officials trip over one another in the rush to extend taxpayer support to Seaboard—from the Federal Government's Overseas Private Investment Corp. (OPIC) in Washington to the Kansas state agency responsible for industrial development, to the utility authority in little Guymon, Okla. Wherever Seaboard is, there is a government throwing money at it. Money the company uses to build and equip plants, hire and train workers, export its products and expand overseas.

Last in a series *on corporate welfare. This week: the saga of one firm. Reprints of the complete series are available at $1.50 each, with shipping and handling charges of $3 for up to four reprints (reduced rates for multiple-copy orders). To order, please call 1-800-952-0041.*

SPECIAL REPORT | CORPORATE WELFARE

This Little Piggy Skipped Town

For a closeup view of Seaboard, let's begin with Albert Lea. For most of this century, Wilson Foods operated that pork plant and was this town's largest employer. Wilson fell on hard times in the early 1980s, cut workers' average annual pay from $22,500 to $18,600 and eventually sold the plant to Farmland Foods. In turn, that company went belly-up a few years later, after it lost its biggest customer—Wilson. Then, in December 1986, just as workers were receiving the last of their unemployment checks, Seaboard appeared.

Once the company negotiated its sweetheart deal with the city, the Chamber of Commerce created a billboard declaring, "[illegible] WELCOME SEABOARD CORP." At an appreciation luncheon, Rick Hoffman, Seaboard's vice president of finance, observed that it is "really a pleasure to be associated with such a fine community and to have such a quality work force."

The more than $3 million Albert Lea handed out to help reopen the plant represented only the latest installment in corporate-welfare payouts. Because hog billing created serious pollution problems, Albert Lea earlier had kicked in $3.4 million to build a wastewater-treatment plant devoted mostly to servicing the pig factory. The hogs had your help as well: The Federal Government contributed $25.5 million, while the state of Minnesota gave $5.3 million. Total cost of the sewage plant: $34 million. The city also built new roads and water lines to the plant, built a parking lot and came up with $4 million to help erect a hog-slaughtering building.

Hoffman, Seaboard's vice president of finance, took note during that luncheon of the stream of government aid: "We're especially grateful to the state of Minnesota and the city of Albert Lea, who together since 1984 have supplied literally millions of dollars in the form of grants, tax incentives and loans to the facility. They had a lot of confidence in it .... Truly this has been a lesson in economic development."

A lesson was about to unfold, all right—a textbook study of the Sokio results of corporate welfare. Seaboard was unable to attract enough workers from Albert Lea to run the plant. Many former Farmland employees had already left the area in search of work. More than 100 had retired. Still others declined to work for Seaboard wages—$4,500 a year less than the plant's 1983 wage, and no vacation the first year on the job.

ALBERT LEA was left in the lurch when Seaboard walked away from this slaughterhouse

Seaboard's solution: recruit Hispanic laborers from other areas of the U.S. as well as from Mexico and Central American countries like Guatemala. Soon the recently arrived immigrants began to stream into Albert Lea—with no money and no place to stay. It was a practice Seaboard would repeat in other towns, in other states.

It became common for several workers to share a room. Families couldn't afford local rents on a Seaboard wage. Eventually some went on welfare. In short, corporate welfare begot individual welfare.

Meanwhile, Seaboard failed to invest in upgrading its sewage-pretreatment facility. As a result, its waste began to overwhelm the city's municipal treatment plant. The city normally placed its treated sludge on soybean cropland, but by the second summer, city officials were in search of more land. As Sparks recalls, "We had so much sludge accumulation that ... we had to go out in the middle of the summer, buy a crop [for $39,900] and plow it under because our storage capacity was exceeded."

Rather than overhaul the plant, Seaboard responded in the classic manner of corporate-welfare artists: It began quietly looking around for another town, another state. Afterward, Albert Lea and Minnesota came up with an additional $12.5 million in incentives to keep the plant. But Seaboard had found a bigger patsy—Guymon (pop. 7,700), in Texas County, Okla. Guymon, the county and the state put together an economic incentive package worth $21 million to entice Seaboard to the Oklahoma Panhandle, a section of the country where hogs and cattle far outnumber people.

Among the subsidies: Texas County borrowed $8 million to plow into the company up-front. To pay off the loan, the county enacted a 1% sales tax. The state granted a $4 million, 10-year income tax credit with the understanding that it was "unlikely" the company would pay any income tax during those 10 years. The state spent $930,000 to train Seaboard's workers. The company received grants and low-interest loans to finance a wastewater-treatment plant. (Remember the one in Albert Lea?) The company was excused from paying $2.9 million in real estate taxes.

As always, local and state officials were on hand when Seaboard announced in August 1992 that it would employ as many as 1,500 workers at its new pork-production facility. In time the plant will slaughter 2 million pigs a year. Oklahoma Governor David Walters declared the plant "a huge and much deserved economic boost to the entire Panhandle area, and to the state."

Meanwhile, back in Minnesota, Seaboard's local president was reassuring newspapers that the Albert Lea plant would remain open.

That was in August 1993. Seventeen months later, in January 1994, Seaboard announced that it would shutter its hog-slaughtering operations and lay off upwards of 600 employees. The company said it would keep about 300 workers to process and produce ready-to-buy meats like bacon, sausage and ham. (The number of employees eventually dropped to about 200, and Seaboard sold the business.)

A lesson learned: corporate welfare begot individual welfare

It was not just Oklahoma's subsidies that persuaded Seaboard to relocate. The Albert Lea work force was extremely wages had risen to $19,190 a year—still $3,180 below their level in 1983, but too rich for Seaboard's blood. Guymon, by contrast, promised low-wage, nonunion labor. Also, Seaboard had decided it wanted to raise its own hogs for slaughter, not just buy them from farmers. Minnesota banned corporate hog farms. Oklahoma had had a similar ban but had repealed it before Seaboard came along.

When Seaboard moved on to Guymon, it left behind in Albert Lea the abandoned hog slaughtering building, empty parking lots, a waste-treatment plant that now operates at only 50% of capacity and higher sewer bills to pay for it. And when Seaboard walked, the state had to come up with some $200,000 to retrain displaced workers to help them find new jobs.

"For 15 years, the community devoted the major portion of its federal and state legacy and a good chunk of local money to providing improvements to keep the slaughtering plant in our community [for Seaboard and its predecessor]," says Sparks. "In retrospect," he says ruefully, "the money could have been better used."

A SHEET OF PORK covers all the conveyor belt in the "cut room" at Seaboard's processing plant in Oklahoma

Ever Buy a Pig in a Poke?

In Oklahoma, it was starting to seem like déjà vu all over again. The $21 million that state and local governments put up to bring Seaboard to the Panhandle was just the start. Guymon, like Albert Lea, couldn't supply the work force required by Seaboard. In time the company would need workers by the thousands. That's because the turnover rate in all processing plants runs close to 100% a year owing to the low wages. This slaughterhouse, one of the world's largest, will eventually kill an average of eight hogs a minute, 24 hours a day, 365 days a year—more than 4 million annually. So Seaboard repeated the Albert Lea hiring process—it attracted immigrant workers, some Laotian and Vietnamese, but most from Mexico, Guatemala, Honduras and other Central and South American countries. Some turned out to be illegal immigrants.

Just getting there was no easy feat, since Guymon, which calls itself "An American Original," is located in a less than convenient spot—320 miles east of Santa Fe, N.M., 335 miles west of Tulsa, 225 miles north of Amarillo, Texas, and 500 miles from the Mexican border. The nearest hot stops are in Liberal, Kans., 40 miles to the north, and Stratford, Texas, 40 miles to the south. As was the case in Albert Lea, the freshly arrived immigrants had no place to stay, and the town that had never had a homeless shelter was forced to open one. Volunteers cleaned, repaired and painted a vacant motel. Unemployed individuals and families could stay up to one week at a cost of $20 a day, which included two meals. If they found work—largely at Seaboard—they could stay up to 90 days while they saved money for a permanent home.

Simultaneously, the state began training Seaboard workers even before the plant opened. Curriculums were provided in English, Spanish, Laotian and Vietnamese. In all, 3,500 Seaboard workers received training. The cost to taxpayers: $607,168.

Other costs began to pop up. By 1997 the Guymon schools bulged with new students. All grades exceeded the state-mandated teacher-pupil ratio. And enrollment is expected to jump one-third by the year 2000. Adding to the turmoil of overcrowding was the confusion about language. The district was compelled to add English-as-second-language classes. This year about 450 students, or 21%, were judged to have limited proficiency in English.

Some parents began to complain that their children were getting no education at all. But when the school district proposed $1.6 million in bond issues for new classrooms, equipment and buses, voters said no. The reason? A general anger directed at the huge hog farm. And a belief that Seaboard Corp. was not paying its way. Which, of course, it was not.

In 1997 the Oklahoma legislature agreed to spend $700 million on state roads and bridges. Of that figure, Guymon's and Texas County's share amounted to $37.3 million. That worked out to a per capita highway spending in Texas County of $2,200—at some 10 times what was earmarked for the rest of the state. Needless to say, most of the roadwork benefited Seaboard.

In addition, $47 million—a disproportionate amount—of the state's five-year capital-improvement program was set aside for Texas County for highway work to accommodate Seaboard truck convoys, which in time would haul 18,000 hogs a day into Guymon from all directions.

Then there was the local tax relief. For the 1996-97 fiscal year, Seaboard's Texas County tax bill totaled $1,118,000, according to John Delgado, then county assessor. The state tax commission excused Seaboard from $700,000 of those taxes—on the grounds that the new hog farms and slaughterhouse qualified as "manufacturing." The state, in turn, sent Texas County that sum from a special fund. In short, all other Oklahoma taxpayers picked up 63% of Seaboard's tax bill.

There's more: the company didn't even want to pay all the remaining $418,000, so it appealed. It won, and the state agreed to absorb an additional $180,000. In other words, the state paid 78% of Seaboard's real estate taxes.

When Seaboard came to town, it was déjà vu all over again

As for the 1997-98 fiscal year, Delhi paid Seaboard's tax bill shortfall to $1,760,000. The company was immediately excused from paying $1,050,000 of that—again, money that all other Oklahoma taxpayers must pay. Once more, Seaboard was shortchanged and appealed. And again, the state succumbed to pick up $225,000 more. The bottom line: Seaboard was obliged to come up with just 17% of the taxes owed.

It should be noted that Seaboard did agree early on to contribute $175,000 to the Guymon schools each year—on the grounds that the old plant it replaced in 1982 had been taxed that amount. Even with that donation, its payments fell far short of what the company really owes. And it doesn't come close to providing the schools with the revenue needed to pay for Seaboard's presence in the community. One might think that would discourage other school districts from negotiating similar agreements. One would be wrong.

In December 1997 Seaboard promised to pay $125,000 to the Keyes schools in Cimarron County, which adjoins Texas County to the west. The money would allow the school system to replace the roofing and reopen a shuttered elementary school. In turn, Keyes agreed it would not oppose company plans to build a feed mill and 400 barns to house an additional 400,000 hogs.

Besides helping school costs, Keyes also may look forward to another set of rising statistics: crime. From 1991 to 1997 in Guymon, violent crimes went up 61%. Larcenies increased 58%, assaults jumped 99%, and auto theft shot up 200%. Rapes went from none to five. And for the first time, youth gangs appeared on Guymon streets. A resident says that "some students have expressed fear of even going to the rest room in the high school."

Hog Heaven? Try Hog Hell

In a way, Guymon is fortunate that it has little oval-shaped housing. If it did, the social costs it is paying for Seaboard's presence would have been worse. As it is, Seaboard workers often must settle in distant areas, like Liberal, Kans., another meat-packing center and magnet for immigrant workers. When Seaboard proposed establishing a hog farm in Seward County, which Liberal is the largest community, residents voted 3 to 1 to block construction. Nevertheless, Kansas state officials reportedly have assured Seaboard that the referendum is not binding.

The company already operates huge hog farms in five southwestern Kansas counties, where it accounts for more than one-quarter of the state's 1.5 million pig population. The pigs are raised in Kansas until they are ready for slaughter and are then trucked to the processing plant in Guymon. Kansas issued $9.6 million in industrial revenue bonds to help Seaboard develop the farms.

Actually, the term farm is a misnomer, for corporate hog farms bear no resemblance to traditional family farms. Instead, they are massive industrial operations. Call them pig factories.

In a long barn that houses about 1,000 animals, the hogs spend their days jammed next to one another, eating constantly until they grow from about 35 lbs. to 250 lbs. They stand on slatted floors so their wastes drop into a trough below that is flushed periodically into a nearby cesspit. The number of cesspits is exploding. From 1990 to 1996, the Oklahoma pig population soared 70%, jumping from 550,000 to 1.95 million, with Seaboard accounting for about 80% of that number.

It is not pleasant living amid this. Just ask Julia Howell and her husband Bob. The couple live on a farm near Hooker, about midway between Guymon and Liberal, where four generations of Howells have grown wheat and raised families. Now forty, Julia Howell, 60, talks about her "40,000 neighbors" and explains why she seals the farmhouse windows, stuffs pillows into the chimney and seldom ventures outdoors without a face mask.

It's the ever present stench—the overpowering smell from Seaboard's 40,000 hogs closely confined in 44 metal buildings, whose exhaust fans continuously pump out tons of pungent ammonia, mixed with tons of grain dust and fecal matter, swirled with the noxious odor of hydrogen sulfide (a poisonous gas produced by decaying manure that smells like rotten eggs), all combined with another blend of ammonia wafting from five cesspits each 25 ft. deep and the size of a football field. They are, in effect, open-air sewage ponds, and 75 ft. below lies the Ogallala aquifer, which provides drinking and irrigation water for much of that part of the country.

Think of all that waste this way: imagine that you are sitting on the front porch of your farmhouse on the prairie, surrounded by four Washington Monuments,

THE SCORECARD

THE OVERTURES WE HAVE MADE THUS FAR to the Seaboard Corp. as agribusiness with annual revenues of $1.8 billion, extends from Boulder to Minneapolis, from Oklahoma to Haiti. Where Seaboard is, there are governments trying mighty hard to

OVERSEAS PRIVATE INVESTMENT CORP. (OPIC)
Insurance in 1980s to cover wheat and corn mills in Massachusetts, a shrimp hatchery and shrimp farm in Ecuador and a flour mill in Haiti. Value: **$25 million**

U.S. AGRICULTURE DEPT. SUBSIDIZED SALES
Subsidized sales of agricultural products under the Public Law 480 program. Value: **$4 million**

CITY OF ALGERT LEA, MINN.
Loan to help Seaboard buy the existing plant; reduced sewage charges. Value: **$3.3 million**

OKLAHOMA DEVELOPMENT FINANCE AUTHORITY
Revenue bonds for hog-processing operations and to finance construction of sewage treatment facilities. Value: **$20 million**

KENTUCKY ECONOMIC DEVELOPMENT FINANCE AUTHORITY
Tax credits for a chicken-processing facility. Value: **$5.7 million**

GRAVES COUNTY (KY.) INDUSTRIAL REVENUE BONDS
To support a Seaboard chicken-processing plant. Value: **$14.5 million**

CITY OF GUYMON, OKLA.
Grant paid for with a sales tax levied on local shoppers to help build a hog-processing plant. Value: **$10 million**

KANSAS INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY
Industrial revenue bonds to pay for hog-farming operations. Value: **$9.6 million**

The **five cesspits** are the size of a football field, and 25 ft. deep

SPECIAL REPORT | CORPORATE WELFARE

stack filled to the top with pig carcasses. And then there are all the dead pigs lying about. By law, the carcasses are supposed to be deposited in Dumpsters with the lids tightly closed, and the contents disposed of daily. But with hundreds of thousands of hogs dying before their time each year, Seaboard often falls behind in disposing of them. Sometimes the overflow from Dumpsters is stacked nearby; sometimes dead hogs are piled up beside barns, sometimes at the side of the road. And sometimes they lie about so long that the flesh rots away.

After issuing repeated warnings to Seaboard, the Oklahoma agriculture department fined the firm $152,250 in December 1997 for improper disposal. After an appeal, the company paid the state $88,200 for the infractions. In all, the Seaboard death toll reached 48 hogs an hour in 1997—420,690 for the year. And the carcasses are picked up only once a day—assuming the dead-pig truck is on schedule. Sometimes it isn't. Which is why at any given moment during the day there are hundreds of dead hogs lying about the fields of Texas County.

For the past two years, Julia Howell has recorded in a diary life with the bloated corpses and the breezes from hog farms:

Monday, July 5, 1999: "86°. Calm. Tried to sit outside a while. Impossible without a mask. What a life!"

Monday, July 6, 1999: "Had a storm at 30°. It caused some fumes 7:30 p.m. Horrible during rain!!"

Wednesday, July 24, 1999: "Calm. 30°. 9:00 p.m. It would take two masks tonight."

The smell has forever altered the Howells' way of life. "We celebrated our 50th anniversary here this year," she says. "But, you know, when the hog farmer starts rolling in, you can't plan on anything. I haven't had people in for dinner [for two years] because I'd probably have to meet them out in the driveway with a mask for them to get to the house.

"We thought we were at the point that we could retire. And, of course, the chatter from Seaboard is, 'Well, my goodness, your land, your home, it's worth more than you ever dreamed because of us coming in next to you . . .' Our kids couldn't sell this if they needed the money to bury us with. It's just devaluated to nothing as far as the market's concerned."

The story is much the same for Vanny Elliott and her husband Delmer, who live about three miles from Guymon and whose land abuts a Seaboard hog farm. "We have to put fly-traps out in the summer," says Elliott. "But we even have flies occasionally in the winter now, and we've never had that before. Rats and mice are a real problem because they have so many pigs that are dying."

To help staff its hog-processing plant and farms, Seaboard has recreated the corporate model employed by the coal barons of the 1920s, when workers lived in company-owned houses and shopped in company-owned stores.

In Guymon, Seaboard and local business leaders accepted in an apartment complex and trailer parks to house the company's employees. Rent is automatically deducted from the paychecks of Seaboard workers. So, too, is the cost of meals that they eat at the plant. A two-bedroom apartment goes for $400 a month; for three bedrooms, $495. A Seaboard worker earns about $300 a week—before Social Security and income taxes are deducted.

"The people never see this money," said Carla Smalls, a rancher who campaigned against corporate hog farming while at the same time waging an ultimately losing battle against cancer. "It comes off the top of their paycheck right to Seaboard," she told Time in December 1997. "By the time they pay Seaboard their rent and the meals are taken off out of the plant—and most of them eat at least one or two meals out there—they don't have a whole lot left. There's no way these people are going to buy houses." Carla Smalls died in August 1998 at age 52.

JULIA HOWELL, a retired farmer, has found a gas mask essential since hog farms opened all around her house. Below, part of the problem

1,100 dead hogs a day, every day, can really get on your nerves

TIME, NOVEMBER 29, 1999

SPECIAL REPORT | CORPORATE WELFARE

AN EMPIRE IS BUILT from this modest office outside Boston, where H. Harry Brosky runs Seaboard's far-flung doings

Bringing Home The Bacon

Let us remark, for a moment, some of Seaboard's corporate welfare in the 1990s: Minnesota provided more than $3 million in economic incentives; Kentucky, $33 million; Kansas, $10 million; and Oklahoma, $100 million. The Federal Government's ever provided $25 million in insurance for business ventures abroad. As for the financial burdens imposed on other taxpayers by virtue of Seaboard's presence, no one knows the cost. It is in the tens of millions of dollars. And all this for jobs that pay little more than poverty-level wages.

All this welfare has helped propel Seaboard into the front ranks of American pork producers. As recently as 1989, the company did not own a single hog. This year it's the No. 5 producer in the country—and about to vault higher. Seaboard plans to build yet another processing plant, capable of slaughtering 4 million hogs a year, thereby doubling its output.

So who really profits from all of this? A secretive Boston family of millionaires.

Seaboard's stock is traded on the American Stock Exchange, and last week it closed at $387 a share. Some 79% of that stock is owned by another company, called Seaboard Flour Corp., and 93% of Seaboard Flour is owned by brothers H. Harry and Otto Brooky Jr., their sister Marjorie B. Stafman and family trusts. All told, the family's stock in Seaboard is worth $400 million.

And who are the Brookys? A Boston *Business Journal* article published in February 1993 described them this way: "The Brooky family could teach J.D. Salinger a thing or two about maintaining a low profile ... Try [to] find anyone in Boston who has even heard of the family, and you draw nothing but blanks ... The Brookys have never held membership with local Chambers of Commerce or positions on the boards of local companies and nonprofit organizations." Two months later, in April 1993, the Kansas City *Star* published a similar report: "Seaboard declined to be interviewed for this article, following a standard practice for at least a decade. That practice has helped Seaboard avoid press coverage almost totally.

"'We kind of like it that way,' said Marshall Tuttle, a Boston lawyer who is Seaboard's corporate secretary. 'We're modest, humble, unassuming folk, and our stock is rather thinly traded.'"

Indeed, Seaboard's offices in Chestnut Hill, Mass., are a testimonial to anonymity and modesty. The executive offices of the company with annual sales of $1.6 billion are confined to several small rooms on the third floor of a frayed four-story building in a strip mall on the western edge of Boston. With stained orange carpets, faded paint and a warren of empty offices, the building is home to a number of small businesses, including a hair and nail salon, a florist, a jeweler, a facial salon, an electrologist and a marketing firm. Notes are affixed to unmarked office doors advising delivery people to "put envelope under door."

It is from this location, as well as a suite in the San Carlos Hotel in midtown Manhattan, that 72-year-old Harry Brooky oversees the day-to-day business operations of the family's global empire.

Harry Brooky, president of both Seaboard Corp. and Seaboard Flour, presides over a work force of 12,000 employees, 10,800 of them in the U.S. Holdings include flour mills in Ecuador, Guyana, Haiti, Mozambique, Nigeria, Sierra Leone and Democratic Republic of Congo; feed mills in Ecuador, Nigeria and Congo; 3,100 acres of shrimp ponds in Ecuador and Honduras; 37,000 acres of sugarcane, 4,200 acres of citrus and a sugar mill, all in Argentina; a winery in Bulgaria; other agri-

"We're modest, humble, unassuming folk." —Seaboard officer Marshall Tuttle

cultural and business interests in Chile, Colombia, Costa Rica, Guatemala and Venezuela; electric-power-generating facilities in the Dominican Republic; shipping companies in Liberia; containerized cargo vessels running between Miami and Central and South America; and, of course, the processing plant and hog farms in Oklahoma, Kansas, Texas and Colorado, along with poultry-processing plants, feed mills, hatcheries and a network of 700 contract chicken growers in Alabama, Georgia, Kentucky and Tennessee.

Harry Bresky, who earned just under $1 million in salary and bonus last year as Seaboard's top officer, didn't respond to Time's requests for an interview. But details of the business dealings of Seaboard and Bresky have emerged in a series of lawsuits filed over the years.

It all began in 1987, when Bresky fired Seaboard's vice president and chief financial officer, Donald Rubalcaba, who had been with the company for more than a decade. Rubalcaba said, charging "illegal and improper activity by Seaboard and other components of the Floar conglomerate, as directed by Bresky."

Rubalcaba claimed the activities included "improper diversion of corporate opportunities from Seaboard," a public company, to Seaboard Floar, Bresky's private company. When Rubalcaba refused to "cover up the wrongdoing," he claimed, Bresky fired him for "not being a team player."

The lawsuit was settled 2nd, according to court documents, both parties are prohibited from disclosing "information concerning the substance of the ... litigation and the substantive terms of its settlement."

Three years later, in 1990, Alan R. Kahn, a Wall Street investment broker and Seaboard shareholder, filed a lawsuit in Delaware seeking an accounting of the profits earned by the Breskys through their interconpany dealings. Kahn alleged that the Breskys required Seaboard Corp. to enter into business deals with Seaboard Floar that generated "unlawful profits" for Seaboard Floar. In short, according to Kahn's allegations, the Breskys used their controlling positions in the two companies to move money from the public company to their private business.

Rebolsen was subpoenaed in the Kahn lawsuit, and he recited a litany of business dealings in which, he said, Bresky had interests in companies that profited from inflated contracts with Seaboard Corp. According to his deposition, kickbacks were paid to officials in foreign governments; contracts were padded; with the excess money diverted to Swiss bank accounts; management fees were inflated; livestock commissions ran 25 to five times the usual rate. And in the case of one Seaboard subsidiary, "there was a great deal of cash that was ... unaccounted for."

In his deposition, Rebolsen recounted the time a top Seaboard executive dropped by his office to ask whether he had set aside money for Bresky in a contract that was being negotiated for a manufacturing plant in Nigeria. Rebolsen recalled the meeting:

"He said, 'Have you thought about including something in this for Harry?'

"I said, 'No ... that thought didn't occur to me.'

"He said, 'You know that these are important considerations when you look at an investment of this size; that you need to have something in this for Harry.'"

Rebolsen said he told the executive that "that's not the kind of thing that I do." He added that "it wasn't 60 days later that I was taken off that project."

The litigation dragged on for four years. Finally, in 1994, the lawsuit was settled when Seaboard Floar and the Breskys, without admitting "any liability or wrongdoing," agreed to pay $10.8 million to Seaboard Corp. For practical purposes, that meant the Breskys transferred money from the family-owned Seaboard Floar to the publicly traded but still family-controlled Seaboard Corp.

As for Harry Bresky, financial statements filed in the Kahn legal case show that in 1990 he reported a net worth of $84 million. That was back when Seaboard stock was less than half its present value. Like many millionaires, Bresky also enjoyed a comparatively low federal tax rate. On his 1990 U.S. income tax return, he reported adjusted gross income of $2.243 million and paid $503,000 in federal income and Social Security taxes. His effective overall tax rate worked out to 22.4%—just a few percentage points above the 16.5% rate paid by families earning $30,000 a year. Of course, Bresky had 84 times as much income.

HARRY BRESKY avoids a photographer in New York City

FROM 1990 TO 1997, SEABOARD CORP. was the beneficiary of at least $190 million in economic incentives from federal, state and local governments to build and staff poultry- and hog-processing plants in the U.S.; insure its operations in foreign countries, and sell its products.

Local (and federal) taxpayers supplied the dollars not just for the outright corporate welfare, but also by picking up the costs of new classrooms and teachers, homelessness, increased crime, dwindling property values and an overall decline in the quality of life.

During those same years, the value of a share of Seaboard stock spiraled from $116 to $3867, increasing the worth of the Bresky family holdings in the company from $425 million to $425 million.

Not bad work if you can get it. But you can't.

And that is the integrity of the entire, elaborate jerry-built system of corporate welfare that infects and distorts the American economy. We are all left holding the bill. —*With reporting by Laura Revenale and Aleta Lutz, and research by Joan Lowenstein*

For more information on corporate welfare, visit our website at time.com

Seaboard's stock price soared as the corporate welfare poured in

SPECIAL REPORT | CORPORATE WELFARE

FIVE WAYS OUT

THERE ARE SOLUTIONS TO THE CORPORATE WELFARE MESS—BUT WHO GOES FIRST?

WHAT'S A MAYOR TO DO?

A major employer wants to expand or build anew. Rather than simply doing so, the corporation stirs up a bidding war to see which city and state will pony up the most cash, loans and tax breaks as the form of economic incentives. If you're the mayor and the facility means jobs and income for your town, do you play hardball and risk losing the plant and the jobs? Or do you give in and hand out tax money, only to face a never-ending string of similar demands from others?

Right now it's not much of a debate: the mayors save.

The eagerness with which many states and cities routinely cancel taxes and distribute free services and goods to corporations puts enormous pressure on every other public official to do the same—even those who don't want to.

There has found many public officials deeply upset at the ultimate cost of the giveaways to their communities. Inevitably, tax rebates to a selected few lead to higher taxes for others and to cutbacks in essential services.

Can anything be done to stop the inequities? Absolutely.

But first, forget about cooperative agreements among states to stop the war of incentives. They've been tried, and they don't work. In October 1991, New York City, New York State, New Jersey and Connecticut agreed that a series of costly bidding wars to attract corporations was ruinous for all concerned. The four governments signed what was described as a nonaggression pact. Less than a year later, the truce was in tatters. New Jersey fired the first shot, among its targets was the New York Mercantile Exchange, which it tried to entice across the Hudson to Jersey City. Piqued New York City officials groused that because of New Jersey's wooing, the city was forced to come up with an extra $10 million to keep the exchange in Manhattan.

Next, in January 1994, New Jersey's newly elected Governor, Christine Todd Whitman, and New York's new mayor, Rudolph Giuliani, both Republicans, promised to end the border war. "We're not interested in stealing from each other," Whitman said.

But then, in September of that year, in what a deputy of Giuliani's called a "shameless raid," Connecticut lured Swiss Bank Corp. from Manhattan to suburban Stamford with $120 million worth of incentives.

Today, seven years after the first cease-fire, there isn't even a pretense of a truce. The latest poker game revolves around the new home of the New York Stock Exchange. Now in cramped quarters on Wall Street, the exchange has hinted that cheaper New Jersey real estate looks awfully good to it. In a knee-jerk spasm, New York City and State offered $600 million in incentives—more than twice the amount ever offered to keep a company in New York—to keep the exchange in Manhattan.

Which brings us to:

Solution No. 1 Increasing corporate welfare at the state and local level: the levying of a federal excise tax on incentives. Under this proposal, Congress would enact a law imposing a tax equal to the value of the economic incentives granted to a company. In other words, if New York City and State governments were to give $600 million to the New York Stock Exchange, the Federal Government would hit the stock exchange with a $600 million federal tax. Hence no more value to economic incentives. No more bidding wars among governments.

"You have to make the tax confiscatory, a 100% tax, to take away the incentive," says Arthur J. Rolnick, senior vice president of the Federal Reserve Bank of Minneapolis, Minn. "Then there's no reason for a company to even knocking at your door. Some [public officials] have criticized [this idea], saying, 'We don't want another tax.' And we tell them, 'This is a tax you'll never have to collect.'"

The Federal Government has the authority to impose such a tax under the commerce clause of the Constitution, which gives Congress the power "to regulate Commerce with foreign nations, and among the several states."

That doesn't mean it would be easy. There would be strong op-

position from the corporate-welfare bureaucracy: the tens of thousands of economic-development specialists, consultants, lawyers, accountants, conference planners and others who earn their living by giving away taxpayer dollars. Accounting and consulting firms in particular, says Ohio State Senator Charles Horn, work "both sides of the fence." They help communities dream up incentive programs, then bring them clients to collect the incentives.

What happens if Congress kills the will?

Solution No. 2 A lawsuit to have incentives declared unconstitutional. Legal scholars believe the practice violates the Constitution's commerce clause. Indeed, the Supreme Court has said as much in several cases. In 1977, for example, the court struck down a New York law that provided for lower taxes on securities transactions processed by brokers in New York. The state pleaded that it needed the tax break to keep brokerages around. The court didn't buy it.

Even groups that usually oppose federal oversight of local affairs are calling for it in this case. The conservative John Locke Foundation, a libertarian think tank in Raleigh, N.C., is a case in point. "We are a sort of right-of-center conservative organization, and what we are basically arguing is that the Federal Government should intervene," says John Hood, president of the foundation, which is readying a federal lawsuit to challenge state subsidies as violations of interstate commerce.

Hood says it's personally "troublesome" for him to call for a federal solution, but he and others in the foundation have come to believe it's the only way to end state subsidies to favored businesses.

> If Congress fails to act, there is always the classic fallback: sue the worst offenders

Corporate welfare at the state and local level would end if either the Locke Foundation's proposed lawsuit succeeded or Congress accepted the suggestion of the Minneapolis Federal Reserve's Rebitch and enacted an excise tax. But what about all the incentives the Federal Government passes out? Many members of Congress, after all, build their careers on government handouts to corporations, which add up to two weekly paychecks for every working person in America every year.

Solution No. 3 Creation of a special commission that would study federal programs and propose which should be scrapped. That list would go to Congress, which would be forced to vote either to kill or preserve the programs listed.

In 1987, Senator John McCain of Arizona, along with other Senators, introduced legislation calling for the creation of an independent federal commission to eliminate "unnecessary and inequitable federal subsidies" to private industry. Both Congress and the President would be required to act on the recommendations of the commission—either by accepting them or rejecting them. "Unless Congress is forced to act to eliminate programs, it will not," McCain noted when he introduced the bill. "Perhaps independent commissions are the only fair way to ensure that neither side is given an advantage to protect its . . . corporate pork."

Of course, any such effort will be greeted with stiff opposition from yet another entrenched bureaucracy. There are the agencies, departments and special-interest groups that profit from the existing system. There would be a spirited fight led by large corporations to preserve the Export Bank, the Overseas Private Investment Corp. and the Foreign Sales Corporations, to name just three.

Solution No. 4 Shut off the flow of low-cost loans from the Department of Housing and Urban Development that have helped fuel the competition to snag companies. These loans date from the Housing and Community Development Act of 1974 and were aimed at "eliminating slums and blight." Today, Trent has found, such loans help bankroll such projects as a waterfront restaurant in Jacksonville, Fla. (it later went out of business), a downtown hotel in Philadelphia and an upscale fashion retailer in Spokane, Wash. In that case, a $24 million new loan arranged by the city of Spokane will go to construct a new store and enlarge a parking garage for Nordstrom Inc.

And if these four solutions are rejected?

Solution No. 5 is rooted in what has become the American way of life: sue. That's the course advocated by Dwight D. Brannon, a Dayton, Ohio, lawyer, who is suing state and local officials and a onetime Dayton-based company on behalf of its former workers.

The company is Hobart Corp., part of an international conglomerate with sales of $2.4 billion in 1987. Hobart produces commercial equipment for food preparation. Ever since the Great Depression, the company had operated a plant in Dayton. But in 1985, Hobart pulled up stakes and moved 30 miles to the north, to Piqua, Ohio, which offered $2 million in incentives. In July, the company informed its 58 hourly employees in Dayton, many of whom had worked at the plant for years—their average age was 53—that their jobs would be terminated in three days. According to the suit, Hobart staffed the new location with part-time workers—average age 24—from a temporary firm.

During a hearing in the lawsuit pending in U.S. District Court in Dayton, the company's lawyer explained it this way: "Every action [Hobart] has taken is motivated by sound economic or operational rationale."

Exactly. And until governments figure out a way to end the practice, corporate welfare will flourish. ■

TO OUR READERS

Exposing the Folly of Corporate Welfare

REVIEWING THE COVERAGE OF THIS YEAR'S WHITE HOUSE scandals set me to thinking about the state of investigative reporting in America. These days investigative reporting has largely given way to and is confused with reports of investigations. No matter that prosecutors (special and not) and their targets have made selective leaks a part of their strategy. Ditto the public relations gurus who are so effective at leaking on behalf of their corporate and celebrity clients. We in the media are too often happy accepting credit for disclosing that which has been dumped in our laps.

The stories that result may be legitimate, but in too many cases relevance and importance take a backseat to titillation. The more trivial the item, it seems, the more shrill the reporting, in print and over the air. It is sometimes hard to distinguish the evening news from *Hard Copy*. No wonder the *National Enquirer* is up for sale. Circulation and profits have been falling, in part because the rest of the media have become so competitive on stories that in years past none would touch. It is not surprising that many Americans view the media with increased distrust and disgust.

Time strives for its share of scoops, taking news tips wherever we might find them—and working through many other sources to confirm them and add context. Most weeks I am happy with the results, although we also have some scalps on our belt (this newsweek's infamous Tailwind story immediately comes to mind) that I wish weren't there. But along with the scoops and the stories of the week, we have devoted substantial resources to special reports that take you behind the headlines so you can understand how our society really works.

Our founder, Henry Luce, urged us through his life and in his will to practice journalism "in the public interest as well as in the interest of [our] shareholders." In recent weeks we have printed two special reports, one about a week in the life of a hospital and another on how to educate your child, that were specially crafted to help fulfill Luce's pledge. Neither has anything in common with the "Gotcha!" journalism so prevalent today, but both will endure as important investigative reports.

This week we take our commitment to public service journalism to a new level by publishing the first of a series by Don Barlett and Jim Steele on the folly of corporate welfare. Barlett and Steele came to Time Inc. 19 months ago from the Philadelphia *Inquirer*, where, over 26 years, they earned their reputations as America's finest investigative reporters. Along the way they garnered almost every major journalistic prize, including two Pulitzers—for stories on shifting practices of the rich and special tax breaks engineered by Congress—the Loeb awards for business reporting and four George Polk awards.

Although their reporting always makes a point, it doesn't reflect a point of view so much as conclusions gained from extraordinary digging. This series has included interviews with several hundred people in 24 states. "If you ask Don and Jim the sources for a point, be prepared for memos that tell you more than you ever want to know," says Steve Lovelady, the Time Inc. editor-at-large who worked on this project and who, as the *Inquirer*'s managing editor before that, worked with Don and Jim on half a dozen other major series.

Don and Jim don't ignore rotten apples, but their passion is for writing about rotten barrels. They also focus not only on the winners—in Time's series, the recipients of the government giveaways—but also on the losers: people who have no chief. The result, I hope you agree, is an impassioned expose of a system gone terribly wrong.

PRIZEWINNING TEAM: Jim Steele and Don Barlett

Steve may call this series anti-business, but I believe nothing is farther from the truth. Although the largest companies are the primary beneficiaries of various corporate-welfare programs, I don't view them as villains. Business enterprises like General Motors and General Electric are designed to make money. They would be derelict if they didn't seek to avoid taxes and gain special subsidies. No, the villains are the federal, state and local governments that reward some companies while denying similar largesse to other corporate and individual taxpayers. Those many chambers of commerce and other business organizations that argue for more corporate subsidies need also to be singled out for censure.

Although ending corporate welfare as we know it is essential, it has become so much a part of the way corporations do business that change will not come easily. No individual or corporation wants to pay higher taxes. Rather than give corporations uneven and unfair exemptions, it may make more sense to simplify away with both corporate welfare and corporate taxation. That would create a level playing field that would replace the current system of favoritism, bribery, subsidies and threats.

I am not sure that Don and Jim (or, for that matter, many of our readers) would go that far. But after reading their series, I think it will be hard to argue that we need the wasteful programs they have exposed. Change won't come, however, until all of us realize that corporate welfare represents a giveaway that takes all of us for a ride.

Norman Pearlstine

Norman Pearlstine: Editor-in-Chief

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

September 3, 1969

CONGRESSMEN URGE OPEN TRIAL IN SMOG CONTROL ANTITRUST CASE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, it is futile to try to compromise the quality of our environment. Yet, that is just what will happen if the Justice Department is pressured into allowing a consent decree to be issued in the pending antitrust suit against automobile manufacturers who are charged with conspiring to prevent speedy development and installation of antismog devices.

Today, I have joined with 18 of my colleagues in the House in sending to Attorney General Mitchell a letter requesting that an open trial be held in this vital case. Pretrial discussions have been underway for some time, and it is possible a decision on whether to hold a trial or go to decree might be made any day now.

Intense lobbying being applied by the Washington counsel for the Automobile Manufacturers Association—AMA is one of the defendants along with the four major car makers—aims to have the Justice Department agree to a nolo contendere plea, and then have the Department put out a consent decree. Such a consent judgment admits no liability for the alleged charges, and so it becomes nothing more than a slight tap on the wrist for the manufacturers.

We believe this case is one of the most vital suits ever instituted by the Justice Department, and we see it representing a major forward step in the campaign for effective air pollution abatement. It must not be nullified or circumvented.

Mr. Speaker, at this point, I would like to insert into the RECORD copies of the letters—my initial letter sent last week, and the letter signed by my 18 colleagues—which were sent to the Justice Department:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 29, 1969.

Hon. JOHN N. MITCHELL,
Attorney General of the United States, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Over the last twenty years, Southern California residents have been subjected to ever-increasing amounts of air pollutants at a rate which seriously threatens both human health and the complete delicate ecology of the area. Although vigorous efforts by state, local and Federal officials have succeeded in reducing many of the major polluting factors, a prime cause of this air pollution continues to be motor vehicle exhaust emissions.

As the problem grew more dangerous, numerous government officials at all levels pressed automobile manufacturers to develop and produce effective anti-smog engines and control devices. But, generally, response from manufacturers has been disappointing. In a letter to President Johnson, Los Angeles County Supervisor Kenneth Hahn noted in 1965 that "Now, after twelve years of correspondence . . . I have found out that you cannot 'cooperate' or urge them 'voluntarily' to do the job."

The Justice Department's anti-trust suit now pending against the manufacturers and the Automobile Manufacturers Association represents a crucial forward step in the drive for effective air pollution abatement. The cost to the American public—in terms of ill health and environmental damage—resulting from the alleged collusion has been huge.

It is my understanding that pre-trial negotiations are now underway between Justice Department and the defendants, and that chances are good that a consent judgment may be reached in this case and that there would then be no open trial.

I believe that the overriding significance of this case makes it imperative that an open trial be held, and I urge you to push for such a trial. The alleged actions of the defendants are—if true—reprehensible, and full and complete public knowledge of them should be brought before the public. I do not feel that the public interest is served in this case by closed-door negotiations.

I am also worried that a plea of nolo contendere and a consent judgment would leave many municipalities and other government units who are closely following this case without sufficient legal grounds to institute damage suits.

In addition, the case offers the opportunity to rule on some important precedents. The question of joint responses by a manufacturers association plays a key role in this case, and the Justice Department's prayer is potentially a landmark position. Another area is that of product fixing to limit competition, and I would hope that the full force of the law is brought to bear in order to deter this sort of collusion.

I fully believe that this case may be one of the most vital suits ever instituted by the Justice Department, and again I urge you to do all you can to hold an open trial.

Sincerely,

GEORGE E. BROWN, Jr.,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 2, 1969.

Hon. JOHN N. MITCHELL,
Department of Justice, Washington, D.C.

DEAR MR. MITCHELL: We are writing to indicate our concern over the persistent and disquieting reports that the Department of Justice is about to compromise one of the most important antitrust cases affecting the health and welfare of the American people. We are aware of the closed-door negotiations now taking place between the automobile industry's lobbyists and the Department, negotiations which may lead to a consent decree in the Department's case against the Automobile Manufacturers Association (AMA), General Motors, Ford, Chrysler and American Motors.

Earlier this year, your predecessors in the Department resisted extraordinary industry pressures and filed a civil complaint against the defendants—(although the Department did decline to ask for a criminal indictment, as its investigating attorney had requested). The complaint alleges generally that the automobile companies, operating under the auspices of the AMA, joined together, through the device of a cross-licensing agreement—to suppress research, development and application of pollution control devices. The more important allegations charge that the companies agreed to pursue research, development, manufacture and installation of pollution control devices on a non-competitive basis, that they agreed to seek joint appraisal of patents submitted by persons not a party to the cross-licensing agreement, and that they agreed on at least three occasions—in 1961, 1962, and 1964—to attempt to delay installation of motor vehicle air pollution control equipment.

These allegations, if proved true, mean that the defendants bear responsibility for a great share of the injury to human health and the many millions of dollars in economic injury resulting from automobile pollution. If these charges are true, the American people have a right to be fully informed of this outrageous corporate callousness by a full and open trial of the issues involved. We fear, however, that the American people will be denied their right to know the full story. We fear that the entire incident will be covered over by a legal deal arranged between the Department and the AMA's Washington counsel.

The representations made to your Department by this law firm do not include, we are sure, the following information:

That the automobile is responsible for dumping more than 90 million tons of pollutants into the atmosphere each year, more than twice as much as any other single polluter.

That the automobile accounts for 91% of all carbon monoxide, 63% of the unburned hydrocarbons and 48% of the oxides of nitrogen emitted from all sources.

That doctors, in a single year, advised 10,000 people to move away from Los Angeles because of the harmful effects of air pollution. (Automobile pollution represents 85% of the contaminants emitted into the ambient air of Los Angeles daily).

That air pollution—of which motor vehicles account for approximately 50% nationally—contains serious toxic substances associated with higher rates of illness and mortality from emphysema, lung cancer, chronic bronchitis and heart diseases.

Professor Barry Commoner, leading authority on pollution, said just last week:

"Once the automobile is allowed out of the factory and transformed, it then reveals itself as an agent which has rendered urban air carcinogenic, burdened human bodies with nearly toxic levels of carbon monoxide and lead, embedded pathogenic particles of asbestos in human lungs, and contributed significantly to the pollution of surface waters."

The time remaining for us to return our environment to a livable state is short, and if the allegations contained in the Department's complaint are proved true, the automobile companies have deliberately and cynically wasted fifteen precious years. The Los Angeles County Board of Supervisors has charged that if the automobile companies had sincerely devoted their energies to the air pollution problem in California during the years 1953–1956, "air pollution from automobiles would have ceased to be a problem by 1966 . . ."

If the defendants in this case are indeed culpable, a consent decree of almost any kind would undermine the penalties of the antitrust laws designed to deter future adventures into collusion. There would be no public acknowledgement by a public-relations conscious industry of its responsibility for the appallingly slow progress in air pollution control. Furthermore, a consent decree would raise formidable barriers to the many treble damage suits which could be founded on an open trial and full public record of the defendants' activities.

Many municipalities are closely following this case with a view toward bringing follow-up actions for pollution damage to health, property and local economies, much in the same way that states and municipalities brought follow-up suits in the *Library Book Cases*. Then also, there are a number of businessmen who invested large sums in pollution-control research, many of whom claim that they were injured by the AMA agreement. Furthermore, it is conceivable that this would open up a new area for class actions to be brought on behalf of thousands of people. But a consent decree might mean that the thousands of pages of evidence—collected by federal investigators over the course of a two-year study at a cost of many thousands of dollars—would be left to collect dust in the Department's files, forever lost to private litigants. This, of course, is what the auto industry wants. We hope that the Department does not become an accomplice in the industry's attempt to avoid redressing the injuries which it may have caused.

In addition, a consent decree would mean that the Department is surrendering a unique opportunity in a particularly strong case to have the courts rule on important landmark legal questions. For one, the Department's complaint requests that the AMA be restrained from making joint responses to government regulatory agencies with regard to information concerning air pollution control technology. Should the Department prevail on this question in court, it would do much to make public any diversity of opinion which may exist among automobile manufacturers in the field of air pollution control. In addition, the Department would have a new weapon in its arsenal to loosen the death-grip which many trade associations hold over weaker members. Secondly, there is the important issue of "product fixing", the joining together of manufacturers to limit competition for product quality. Until recently, the main thrust of antitrust law enforcement has generally been limited to price fixing and a ruling on product fixing might deter a practice which all too common in many American industries.

If the defendants have broken the antitrust laws, and are responsible for the adverse health and economic effects of automotive pollution, then they must be prepared to have the law applied with its full force. The Administration promised to see

that the rights of victims would be protected along with the rights of law-violators. In this situation, an open public trial would help show that this Administration considers corporate lawlessness on no different footing than any other violation of law.

Sincerely,

JOHN A. BLATNIK,—GEORGE BROWN, PHILLIP BURTON, SHIRLEY CHISHOLM, JOHN CONYERS, JR., BOB ECKHARDT, DON EDWARDS, LEONARD FARBSTEIN, DONALD FRASER, ANDREW JACOBS, JOSEPH KARTH, EDWARD KOCH, ALLARD LOWENSTEIN, RICHARD OTTINGER, BERTRAM PODELL, BENJAMIN ROSENTHAL, EDWARD ROYBAL, ROBERT TIERNAN, CHARLES WILSON.

Next, and because it is such an important suit, I shall insert a copy of the Justice Department's complaint against the manufacturers:

[U.S. District Court, Central District of California. Civil No. 69-75-JWC. Filed January 10, 1969]

UNITED STATES OF AMERICA, PLAINTIFF, V. AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.; GENERAL MOTORS CORPORATION; FORD MOTOR COMPANY; CHRYSLER CORPORATION; AND AMERICAN MOTORS CORPORATION, DEFENDANTS

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein, and complains and alleges as follows:

I

Jurisdiction and venue

1. This complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, as amended, (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act.

2. Each of the corporate defendants named herein transacts business and is found within the Central District of California.

II

Defendants

3. Automobile Manufacturers Association, Inc., a corporation organized and existing under the laws of the State of New York with its principal place of business in Detroit, Michigan, is made a defendant herein. Automobile Manufacturers Association, Inc., is a trade association whose membership consists mainly of firms engaged in the business of manufacturing and selling motor vehicles and component parts and accessories thereto in various states of the United States.

4. The Corporations named below are made defendants herein. Each of said corporations is organized and exists under the laws of the State indicated and has its principal place of business in the city indicated. Within the period of time covered by this complaint said defendants have primarily engaged in the business of manufacturing and selling motor vehicles in various states of the United States, and also manufacture and sell component parts and accessories thereto.

Defendant corporation, General Motors Corporation; State of incorporation, Delaware; principal place of business, Detroit, Michigan.

Defendant corporation, Ford Motor Company; State of incorporation, Delaware; principal place of business, Dearborn, Michigan.

Defendant corporation, Chrysler Corporation; State of incorporation, Delaware; principal place of business, Highland Park, Michigan.

Defendant corporation, American Motors Corporation; State of incorporation, Maryland; principal place of business, Detroit, Michigan.

5. Whenever in this complaint reference is made to any act, deed or transaction of a corporate defendant, such allegation shall be deemed to mean that said corporation engaged in said act, deed or transaction by or through its officers, directors, agents or employees while they were actively engaged in the management, direction or control of corporate business affairs.

III

Co-conspirators

6. Each of the corporations listed below in this paragraph is not named a defendant herein but is named as a co-conspirator and has participated as a co-conspirator with the defendants in the offense hereinafter charged and has performed acts and made statements in furtherance thereof.

Corporation, Checker Motor Corporation (successor to Checker Cab Manufacturing Corporation); State of incorporation, New Jersey; principal place of business, Kalamazoo, Michigan.

Corporation, Diamond T Motor Car Company; State of incorporation, Illinois; principal place of business, Cleveland, Ohio.

Corporation, International Harvester Company (a consolidation of International Harvester Company, a New Jersey Corporation, and International Harvester Corporation, a Delaware Corporation); State of incorporation, Delaware; principal place of business, Chicago, Illinois.

Corporation, Studebaker Corporation (successor to Studebaker-Packard Corporation); State of incorporation, Michigan; principal place of business, South Bend, Indiana.

Corporation, White Motor Corporation (successor to The White Motor Company); State of incorporation, Ohio; principal place of business, Cleveland, Ohio.

Corporation, Kaiser Jeep Corporation (successor Willys Motors, Inc., a Pennsylvania Corporation); State of incorporation, Nevada; principal place of business, Oakland, California.

Corporation, Mack Trucks, Inc. (successor to Mack Manufacturing Corporation); State of incorporation, New York; principal place of business, New York.

7. Various other persons, firms and corporations not made defendants herein have participated as co-conspirators with the defendants in the offense charged in this complaint and have performed acts and made statements in furtherance thereof.

IV

Definition

8. As used herein, the term "motor vehicle air pollution control equipment" means equipment, or any part thereof, designed for installation on a motor vehicle or any system or engine modification on a motor vehicle which is designed to cause a reduction of pollutants emitted from the vehicle, including, but not limited to, any device for the control of emissions of pollutants from the exhaust system, the crankcase, the carburetor, or the fuel tank.

V

Trade and commerce

9. Automobiles for the most part are manufactured in the State of Michigan and are shipped therefrom to each of the fifty states of the United States. Some automobiles are assembled in various states of the United States from parts manufactured in the State of Michigan and other states. In 1968, 78,315,000 passenger cars and 15,364,000 trucks and buses, exclusive of off-the-road vehicles, were registered in the United States. In that year, 8,604,712 passenger cars valued at more than $17¼ billion and 1,791,587 commercial vehicles valued at more than $8.9 billion were produced in this country. Of the trucks produced, 98,580 were built with diesel motors.

10. The largest number of passenger cars registered and new cars sold in any state of the United States in 1966 was in the State of California where 7,621,792 cars were registered and 832,240 new cars sold. The largest number of passenger cars, registered in any county of any state in the United States in 1966 was in Los Angeles County where 2,932,980 cars were registered. Similarly, in 1966 California accounted for the largest number of truck registrations and new truck sales with 1,542,984 trucks registered and 150,927 new trucks sold, and Los Angeles County accounted for the largest number of trucks registered, numbering 438,218.

11. Since at least 1952 it has been established that motor vehicles contribute to air pollution by the emission of hydrocarbons, carbon monoxide, oxides of nitrogen and other contaminents. For example, in Los Angeles County, as of January 1967, gasoline-powered motor vehicles accounted for 12,465 tons out of a total of 14,610 tons, or 85.3 percent of contaminants emitted into the ambient air daily. As a result of new and continuing requirements that automotive vehicles be equipped with air pollution control devices, a large and growing market for the production and installation of such devices has developed. Motor vehicle air pollution control devices are shipped in interstate commerce either as engine or system modifications or as equipment attached to automobiles, which are shipped from Michigan and other states to each of the fifty states of the United States.

VI

Offense alleged

12. Beginning at least as early as 1953, and continuing thereafter up to and including the date of this complaint, the defendants and co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in motor vehicle air pollution control equipment in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

13. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

(a) to eliminate all competition among themselves in the research, development, manufacture and installation of motor vehicle air pollution control equipment; and

(b) to eliminate competition in the purchase of patents and patent rights from other parties covering motor vehicle air pollution control equipment.

14. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which they combined and conspired to do, including, among other things, the following:

(a) agreed that all industry efforts directed at the research, development, manufacture and installation of motor vehicle air pollution control equipment should be undertaken on a non-competitive basis;

(b) agreed to seek joint appraisal of patents and patent rights submitted to any of them by persons not parties to a cross-licensing agreement entered into on July 1, 1955, and amended and renewed periodically, and to require "most-favored-purchaser" treatment of all parties to the cross-licensing agreement if any one were licensed by a person not a party to that agreement;

(c) agreed to install motor vehicle air pollution control equipment only upon a uniform date determined by agreement, and subsequently agreed on at least three separate occasions to attempt to delay the installation of motor vehicle air pollution control equipment;

(1) in 1961 the defendants agreed among themselves to delay installation of "positive crankcase ventilation" on vehicles for sale outside of California until the model year 1963, despite the fact that this antipollution device could have been installed nationally for the model year 1962 and that at least some automobile manufacturers expressed willingness to do so, in the absence of a contrary industry-wide agreement;

(2) in late 1962 and extending into 1963, the defendants agreed among themselves to delay installation of an improvement to the positive crankcase ventilation device, an improvement which the California Motor Vehicle Pollution Control Board had indicated it would make mandatory;

(3) in early 1964 the defendants agreed among themselves to attempt to delay the introduction of new exhaust pollution control measures on motor vehicles sold in California until the model year 1967, despite the fact that, all were capable of installing the improvement for the model year 1966, the defendants agreed to tell California regulatory officials that installation of exhaust antipollution measures would be technologically impossible before 1967, and only under regulatory pressure made possible by competing device manufacturers not in the automobile industry did the defendants agree to a California regulatory requirement that exhaust devices be installed for the model year 1966; and

(d) agreed to restrict publicity relating to research and development efforts concerning the motor vehicle air pollution problem.

VII

Effects

15. The aforesaid combination and conspiracy has had, among others, the following effects:

(a) hindering and delaying the research, development, and manufacture—both by the defendants and coconspirators and by others not parties to the agreements alleged herein—and the installation of motor vehicle air pollution control equipment;

(b) restricting and suppressing competition among the defendants and co-conspirators in the research, development, manufacture and installation of motor vehicle air pollution control equipment; and

(c) restricting and suppressing competition in the purchase of patents and patent rights covering motor vehicle air pollution control equipment.

Prayer

Wherefore, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in a combination and conspiracy, in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act.

2. That each of the defendants named in this complaint, its successors, assignees and transferees, and the respective officers, directors, agents and employees thereof, and all persons acting or claiming to act on behalf thereof;

(a) be enjoined from continuing, maintaining or renewing, directly or indirectly, the combination or conspiracy hereinbefore alleged, or from engaging in any other practice, plan, program, or device having a similar effect;

(b) be enjoined from entering into any agreements, arrangements, understandings, plan or program with any other person, partnership, or corporation, directly or indirectly;

(1) to delay installation of air pollution control equipment or otherwise restrain individual decisions as to installation dates;

(2) to restrict individual publicity of research and development relating to air pollution control technology;

(3) to require joint assessment of the value of patents or patent rights relating to air pollution control equipment;

(4) to require that acquisition of patent rights relating to air pollution technology be

conditioned upon availability of such rights to others upon a most-favored-purchaser basis; or

(5) to respond jointly to requests by government regulatory agencies for information or proposals concerning air pollution control technology unless such agency requests a joint response in a particular case; and

(c) be required to issue to any applicant interested in developing motor vehicle air pollution technology unrestricted, royalty-free licenses and production know-how under all United States patents owned, controlled or applied for to which the cross-licensing agreement dated July 1, 1955, as amended, has been applicable, and to make available to any such applicant all other know-how related to air pollution control technology which has been exchanged with any other defendant.

3. That the plaintiff have such other, further and different relief as the nature of the case may require and the Court may deem just and proper in the premises, including cancellation of the cross-licensing agreements dated July 1, 1955, as amended, and an injunction ensuring that all future joint arrangements relating to air pollution control technology be appropriately limited as to subject matter of joint effort and numbers of participants so as to maintain competition in the development of air pollution technology.

4. That the plaintiff recover the costs of this suit.

Dated:

RAMSEY CLARK,
Attorney General.
EDWIN M. ZIMMERMAN,
Assistant Attorney General.
BADDIA J. RASHID,
Attorney, Department of Justice.
WM. MATTHEW BYRNE, JR.,
U.S. Attorney.
RAYMOND W. PHILIPPS,
CHARLES L. MARINACCIO,
Attorneys, Department of Justice.

A few weeks after the suit was filed, Morton Mintz of the Washington Post wrote this interesting background story about the early history of the case:

[From the Washington Post, Jan. 26, 1969]

SMOG FIGHTER INSPIRED AUTO INDUSTRY LAWSUIT

(By Morton Mintz)

More than four years ago, an angry municipal official made a speech in Houston. Little noticed at the time, the speech was the genesis of the Justice Department's civil antitrust suit filed this month charging that the four major U.S. auto manufacturers and their trade association conspired to delay development and installation of devices to curb automotive air pollution.

The public official was S. Smith Griswold, then air pollution control officer of Los Angeles County. For a decade, he had fought to control the sources of smog. All of these sources but one were brought under control or significantly checked. The exception was by far the most important source: the ubiquitous automobile.

As time went on, Griswold became convinced that for all its talk about how hard it was trying and how much it was spending, Detroit was at best halfhearted about control devices for the crankcase and the exhaust system. Finally, in June, 1964, in his Houston speech to the Air Pollution Control Association, he exploded.

"Everything that the industry is able to do today to control auto exhaust was possible technically ten years ago," he said. "No new principles had to be developed; no technological advance was needed; no scientific breakthrough was required."

Griswold depicted Detroit as a citadel of "arrogance and apathy" that has "bought ten years of delay and unhampered freedom to pour millions of tons of toxic contaminants into the atmosphere."

At the time, the industry was spending $1 million a year for pollution control. Griswold contrasted this with the total of $9.5 million that 22 industry executives earned in 1963 and with the $1 billion being spent for 1965 model changes.

Finally, Griswold tried to explain the industry's purported apathy. "Control of air pollution does not make cars easier to sell," he said. Neither does it "make them easier to produce. To people interested in profits, expenditures for the development and production of exhaust controls are liabilities."

A CASE MADE UNWITTINGLY

In an interview, Griswold, who now heads a Washington consultant firm on air pollution and other environmental problems, said he was unaware that his speech laid out the essentials of an antitrust case.

Nothing might have happened had it not been for a chance visit that Ralph Nader, then an obscure volunteer worker in the Labor Department, paid to the office of Thomas F. Williams, public information officer for the Division of Air Pollution of the Public Health Service.

Donald Green, an aide to Williams, showed the speech to Nader, who as a lawyer sensed its antitrust implications. In a recent interview, Nader said that the Griswold speech struck him as a potentially classic portrayal of "product-fixing"—activity covered by the antitrust laws. In this case, he felt, the activity involved important impacts on health and might be delaying technology that would permit eventual phasing out of the fume-producing internal combustion engine.

After reading the speech, Nader telephoned Griswold in Los Angeles. Several long conversations followed, on the phone and during Griswold's visits to Washington.

Nader tried but failed to interest a Justice Department antitrust lawyer who specialized in auto industry matters. But in the late summer of 1964, Nader learned that William H. Orrick Jr., then the Department's antitrust chief, had set up a new policy planning staff. Nader got in touch with its head, Murray H. Bring.

Neither Bring, now a member of the Washington law firm of Arnold and Porter, nor any past or present Justice Department official involved with the case would discuss it. But the upshot of Nader's getting in touch with Bring was that he was invited to outline his antitrust theory to Orrick and more than a dozen of his aides. At a meeting lasting more than an hour, he recalls, he argued that alleged product-fixing of this kind deserved at least as much priority as conventional price-fixing cases.

In late 1964, Griswold himself informally asked the Department to make an antitrust investigation. Although he told an interviewer he could not be certain from memory, he said he believed he alerted Justice to a resolution that he was helping to prepare for the Los Angeles County Board of Supervisors.

ADVISE 10,000 TO MOVE AWAY

As finally adopted by a unanimous vote on Jan. 26, 1965, the resolution traced the history of the problem of air pollution in Los Angeles County, pointed out that because of that problem physicians had advised 10,000 persons to move away in a single year and said that health and welfare continue to be "jeopardized by the exhaust emissions of 3.5 million motor vehicles, burning about 7,150,000 gallons (of gasoline) daily."

The resolution charged that the industry had pooh-poohed the role of automobiles in Los Angeles pollution until forced to change its position by an accumulation of overwhelming evidence, by the spur of competition from "outsider" firms that had developed control devices on their own and by the pressure of California legislation making control devices mandatory.

If the Automobile Manufacturers Association (AMA) "had given the same attention to the problem in 1953–56 as they did after installation became mandatory, air pollution from motor vehicles would have ceased to be a problem in 1966," the resolution asserted.

Saying that action was not taken in the 1950s because of agreements among Automobile Manufacturers Association members to pool all of their findings and to cross-license developments for pollution control, the Board of Supervisors concluded by requesting the Justice Department to make an antitrust investigation.

By the time the resolution was formally adopted, the Justice Department already had served demands for records on the industry—an action it took in early January, 1965.

Essentially, the Department complaint filed last Jan. 10 in Los Angeles reflects the Board's resolution. The complaint points out, for example, that in the single month of January, 1967, gasoline-powered vehicles dumped 12,455 tons—about 25 million pounds—of contaminants into the atmosphere of the bowl-shaped Los Angeles area. This was 85 per cent of all emissions.

And the suggestions was obvious in the suit that had the defendants competed in the field of control devices, rather than purportedly suppressing progress in violation of the antitrust laws, there would have been less pollution, less disease and less property damage.

The AMA's position is the reverse: the "cooperation" among the defendants—General Motors, Ford, Chrysler and American Motors, plus the AMA—was not only entirely legal and open and aboveboard, but was also the only feasible way to achieve the progress everyone sought.

The Department's charges also were heatedly rejected by the defendant manufacturers. American Motors, for example, said it "categorically denies engaging in any combination or conspiracy . . ."

COLLISION WITH AUTO SAFETY

Between the time the Justice Department started to move on the case and the time the suit was filed, the matter became involved briefly with a congressional hearing.

By late 1965, the industry was faced with another crisis: the seeming inevitability of auto safety legislation. For Detroit, the question was how tough the law would be.

In April, 1966, the AMA went before the Senate Commerce Committee to plead for an "umbrella against antitrust" so that it could undertake joint development of safety devices.

To illustrate the need for the "umbrella," AMA spokesman John S. Bugas, a Ford vice president, pointed out that the industry already was under investigation in connection with pollution control devices.

Committee Chairman Warren G. Magnuson (D-Wash.) asked Justice for immediate comment. Donald F. Turner, who meanwhile has succeeded Orrick as head of the Antitrust Division, replied with a letter attacking the industry proposal. The Department's investigation concerned cooperative efforts "to suppress, not to promote," use of the devices, Turner said. Besides, the antitrust laws are not a barrier to "necessary and constructive" joint efforts, he said.

Turner had assigned the investigation to Samuel Flatow, who has since retired from the Department to enter private practice here. As a result of Flatow's work, first in Washington and then in Los Angeles, a grand jury was convened, in July 1966, and heard evidence until December, 1967. Flatow then requested permission to ask the jurors to return a criminal indictment, a request the Department denied.

There may have been a practical consideration: At least four Federal judges who might have received the case reportedly are strongly opposed to criminal sanctions in antitrust cases. But a more fundamental consideration is that long-standing Department policy reserves the criminal route for price-fixing and other traditional cases in which there is no question of blatantly illegal conduct. The pollution case was not traditional.

Another factor is the practical utility of a criminal case as opposed to a civil case. A criminal case can result in penalties intended in part to deter further misconduct. But a civil case can lead to the fashioning of a court decree that prohibits specific forms of misconduct thereafter.

AN UNUSUAL PRAYER

In the pending case, the Department offers an unusual "prayer," to use the legal term. It is that the court will prohibit the defendants from responding "jointly to requests by Federal regulatory agencies for information or proposals concerning air pollution control unless such agency requests a joint response in a particular case." This is an uncommon recognition of the proposition that the behavior of trade associations can violate the antitrust laws.

If the "prayer" is granted, one of the broad questions that will be generated is this: When any Government agency is involved in the process of setting safety standards, can a trade association be the spokesman for an industry in which dissent and diversity among member companies is being suppressed?

The Department's "prayer" is, of course, confined to the particular facts of the air pollution case. But the petition is also in accord with the intent of Congress, expressed in the auto safety law, that car manufacturers be stimulated by the National Traffic Safety Agency to compete in the area of safety.

Late last year, the Agency declared its intention to require manufacturers to disclose to new-car buyers such safety-related performance data as the distances needed to brake to a stop from various speeds, data that would permit comparative shopping on safety aspects. The primary response from the industry was the AMA's. GM, Ford and Chrysler filed no initial responses of their own. American Motors' was an endorsement of the AMA's.

Nader's contention—denied by the AMA—was that the Association controlled the responses and that the AMA was itself controlled by GM, the industry leader.

The Department also seeks a court order banning patent licensing agreements of the kind used here and for bidding other agreements under which individual car makers did not publicize their progress in pollution control.

Another subtle but important aspect of the case is its origins in a marriage of antitrust lawyers to specialists with expertise in a field as arcane as pollution control devices.

Nader believes that the full potential of the antitrust laws to protect the public against "product-fixing" and technological repression and stagnation cannot be realized until engineers and other experts become part of the regular staff of antitrust agencies.

A prominent Washington antitrust lawyer with both private and Government experience agrees, noting that technology has brought "a whole new breed of antitrust problems that lawyers can understand only if they work with technical experts."

Actually, such problems occasionally have surfaced before. The Federal Trade Commission, for example, knew that odometers were built to record more miles than actually were driven—to the benefit of manufacturers and rental firms but to the detriment of owners and renters.

But the FTC failed to act for almost three

decades. A group of law students guided by Nader said in a recent report that this was due to the FTC's being "duped by an excuse perennially put forth by the auto manufacturers; they claimed they had to make odometers register high because state highway officials demanded that they make *speedometers* register high (to diminish actual driving speeds) and that the two were inseparably connected . . . the fact of the matter is that odometer and speedometer are not connected, as any mechanical engineer would have known."

While behind-the-scenes maneuvering by the defendants has been intensive, the manufacturers have brought only one public statement on the suit. Although I would question many of the suppositions made in that statement—by AMA president, Thomas C. Mann—I would like to reprint his remarks in the RECORD as an indication of the type approach the manufacturers are using:

AMA NEWS RELEASE

WASHINGTON, D.C., January 10.—Thomas C. Mann, President of the Automobile Manufacturers Association, today issued the following statement on the suit filed by the Department of Justice against AMA and some of its member companies in Los Angeles:

"We greatly regret the Department of Justice's sudden decision to attack the industry's 15 year old cooperative program to develop and perfect motor vehicle emissions controls. The Department's action is based on a profound misunderstanding of the cooperative program and its actual effects.

"Under this program, initiated at the request of the California authorities, the industry has been developing new technologies for solving this pressing problem of our urbanized society. The program has not hindered or delayed the development and installation of motor vehicle air pollution control equipment. On the contrary, it has already succeeded in reducing the level of hydrocarbon emissions of new cars approximately 63% below the level of the pre-control models, and additional controls now under development are expected to further reduce hydrocarbon emissions to 79% below pre-control models. Moreover, the systems developed as a result of the program have reduced carbon monoxide emissions by about 60%.

"This progress has been made during a period when state and federal regulation has continually taxed the ability of engineers to meet the stringent standards that have been set. It would not have been possible to meet the timetables set by governmental agencies without the cross-fertilization of ideas and the full exchange of technical information among automobile manufacturers and suppliers. This exchange has been made feasible by a royalty-free patent cross-license agreement which all domestic manufacturers of passenger cars, a number of truck manufacturers and many foreign vehicle manufacturers have joined. Although this type of agreement has been praised as encouraging competition, the Department now attacks it.

"With continuing increases in the vehicle population and in the volume of pollutants entering the atmosphere from non-vehicular sources, there is need for even greater reductions in automotive emissions. The manufacturers are now faced with a new requirement for controlling the emission of oxides of nitgrogen, a task which in many respects will be more difficult than controlling hydrocarbon emissions. In our judgment, the Department's action today will substantially retard the rate of progress toward all of these goals by casting a serious cloud on the present arrangements and thus reducing the essential flow of information among the participating companies.

"This will be especially harmful to the smaller passenger car and truck companies and to many foreign manufacturers who account for a substantial share of the U.S. market. If these companies are unable to make the necessary progress to meet the more stringent requirements that the regulatory authorities have set for accomplishment within the next several years, the Government will be faced with the necessity of postponing more stringent requirements. If such postponement should occur, the public will be the loser.

"The problem of how Government can most effectively command scientists and engineers to make a new technological breakthrough of this kind, and the corresponding problem of how the industry can most effectively respond to such a command, are both novel and difficult. However, it is difficult to see how any result other than delay and increased cost can come from the Department's action seeking to prohibit the free interchange of technical information about automotive emissions among the firms which are in the best position to find the needed solutions.

"A year ago the President called on Government and industry to join as partners in attacking the problems of air pollution. The automotive industry has done its best to respond to that request. Today's action can only complicate the difficult task of making the partnership a fruitful one."

What Mann said in his statement has more recently been echoed by Chrysler Corp.'s chief engineer, Charles M. Heinen, who told a meeting of the New York Society of Automotive Engineers that "the main battle against automobile pollution has been won." Dan Fisher of the Los Angeles Times reported on that speech:

EMISSION CONTROL ENGINEER SAYS SO: HAS AUTO SMOG BATTLE ALREADY BEEN WON?

(By Dan Fisher)

"Ladies and gentlemen, let me come to the point: The main battle against automotive air pollution has been won."

That's how Charles M. Heinen, Chrysler Corp.'s chief engineer, emission control and chemical development, opened a speech Wednesday to a meeting of the New York Society of Automotive Engineers.

Heinen, who tends not to mince words, stated: "We have done the job proposed . . . For the sake of perspective, let me say that if there were no other vehicles on the road except the 1969–1970 models, we would—overnight—breathe the same clean air we had in 1940 as far as the automobile contribution is concerned."

To reduce emissions from the levels that will be achieved in the 1970 models "is going to be rough, and it looks like it will be very expensive—in the billions of dollars—to car owners. The next step also raises serious and sincere questions among thoughtful and knowledgeable observers as to how much a further reduction is really necessary and is it worth it from a social, scientific, medical, and economic standpoint."

Heinen suggested that future California and federal regulations—for 1971 models and beyond—will make little significant contribution over what's already been done, and that for that small significant gain, the cost would be $10 billion plus on a national level.

That works out to about $100 added to the price of each car sold in a year.

While hydrocarbons and carbon monoxide are controlled under present California standards, a third pollutant is covered in 1971 California standards—oxides of nitrogen.

Research indicates, Heinen said, that when hydrocarbons are controlled, the reaction of the reduced hydrocarbons and oxides of nitrogen is insufficient to produce photochemical smog.

Although challenging the reasons for control, he said the technology to control oxides of nitrogen is within reach. "Unfortunately, it would mean penalties in cost, performance, fuel economy, and driveability," the emissions specialist added.

He also took issue with California medical authorities who have predicted dire health results from exposure to automobile-caused air pollution. "As a matter of fact, a further review of the medical position would seem to say that the situation is not critical now, or indeed, even serious in the opinion of pretty near everyone except those in California."

The decision about oxides of nitrogen control "should probably be made on the basis of its effect on visibility and on plant damage," he said.

Other automotive engineers have suggested that the least they seek is more time to work on inexpensive solutions to the oxides of nitrogen problem. While the 1971 California standards covering this pollutant can be met at relatively low cost, they say, those proposed for 1972 and 1974 cannot, with present technology.

One auto company engineering vice president has predicted flatly that those standards may be the ones that finally result in a court fight.

Maybe one reason Heinen can call the battle over is that the solutions are not as difficult as the manufacturers would want us to believe. For example, I find this following article from the Los Angeles Times quite fascinating:

REDUCING CAR SMOG EASY, ENGINEER SAYS—SIMPLE ADJUSTMENT CUTS EMISSIONS, HEARING TOLD

(By George Getze)

A simple mechancial adjustment of present-day automobile engines will reduce nitrogen oxide emissions by about 40%, it was stated Wednesday at a public hearing in the New Federal Building.

Robert W. McJones, consulting automotive engineer for the Pacific Lighting Corp., said the reduction would be enough in most cases to bring the cars into compliance with the nitrogen oxides standards already set by California for 1971 model cars.

That is a standard the automobile industry doubts it can meet.

McJones testified that the reduction of pollutants, hydrocarbons and carbon monoxide as well as nitrogen oxides, would be even greater than 40%, if natural gas instead of gasoline were used as fuel.

McJones and Reine J. Corbell, project engineer for Pacific Lighting, were witnesses Wednesday at a Department of Health, Education and Welfare hearing.

The hearing is being held to collect information that will help Robert J. Finch, secretary of HEW, decide whether or not California is to be permitted to have auto smog standards more stringent than those set nationally by the federal agency.

Most of Wednesday's session was taken up by cautiously worded doubts of the technological feasibility of controlling both nitrogen oxide and hydrocarbon emissions from automobiles, at least in time to meet California's present and proposed standards.

The doubting was mostly on the part of representatives of the manufacturers.

Witnesses from California universities, air pollution agencies and citizens' groups all insisted the standards could be met if Detroit really tried.

"If the automobile makers can't meet the standards with gasoline-fueled vehicles, California should insist upon conversion to gaseous fuels," Corbell said.

A 40-PERCENT REDUCTION

The simple adjustment—which McJones said would reduce nitrogen oxides emissions 40% even on gasoline automobiles—consists of disconnecting the hose or metal line that connects the carburetor and distributor.

The purpose of the hose is to advance the spark timing when an automobile is cruising along, neither slowing down nor speeding up.

The theory is that this saves gasoline, but some automotive engineers doubt that it does.

"When the hose is disconnected the auto operation at full throttle is unchanged, and the ordinary full throttle timing applies at cruising, too," McJones told the HEW committee headed by William Megonnell, assistant air pollution commissioner for HEW.

Corbell said Pacific Lighting had tried the adjustment on 10 Fords, Plymouths, Dodges, Chevrolets and Ramblers, all late models.

He told the HEW committee that only two of the cars met the 1971 nitrogen oxide standards even approximately. When the hose was disconnected, however, all but four met the 1971 standards, even though they were operating on ordinary fuel.

McJones and Corbell said there was no adverse effect on performance.

Typical reductions, for example, were from 2,500 parts of nitrogen oxides per million parts of air, to 1,600; 1,300 ppm to 800, and 3,400 ppm to 1,400.

EXPRESSES DOUBT

The chief witness for the automobile industry was Donald Jensen, who used to be executive head of the California Motor Vehicle Pollution Control Board but who now works for the Ford Motor Co. He also spoke Wednesday for the Automobile Manufacturers' Assn.

"There is a substantial question whether the California oxides of nitrogen standards can, in fact, be met by all vehicle manufacturers," Jensen told the committee.

He said the association "neither supports nor opposes California's request" for standards more stringent than the national ones.

When Jensen finished his prepared statement Megonnell pointed out that he had heard very little in it of support for California's request but a lot of opposition.

Another member of the HEW committee, Kenneth Mills, asked Jensen if Detroit would make and progress at all in controlling pollutants such as oxides of nitrogen, if very stringent standards were not adopted.

Jensen answered that the industry would make progress and would work at controlling the pollutants, even if it was not required to do so by strict standards.

CALLS FOR FAITH

"What the chairmen of the boards of the automobile corportaions say can't be taken lightly," Jensen told the HEW committee.

He said it must be taken "on faith" that these board chairmen really mean what they say, and they say auto makers are going all out to control air pollution from automobiles.

The Department of Justice replied Wednesday to Dep. Atty. Gen. Charles O'Brien's charge, made the day before, that it had used fraud and chicanery in trying to block California's investigation of auto smog.

O'Brien used the hard words in telling the HEW committee that federal attorneys had blocked his efforts to get information from Wallace Linville. Linville, a smog expert, had testified before the U.S. grand jury investigating Detroit's efforts (and alleged lack of efforts) to control auto smog emissions.

A spokesman for the Department of Justice said Wednesday that a federal law prohibits persons from disclosing testimony before a grand jury, which was why Linville was advised not to answer all of O'Brien's questions.

He denied any fraud or chicanery was involved.

"The department has cooperated and will continue to cooperate with the state's en-

deavor to investigate the automobile manufacturers' air pollution control record," the spokesman said.

As Heinen points out, current controls, devices and regulations for new motor vehicles have gone far in easing the seemingly exponential growth of air pollutants, but the emissions from the millions of older cars not subject to the stringent laws continue pouring ton after ton of smog into the air. If the battle is over, it is going to be one heck of a mopup operation.

Certainly, the advances in cutting down pollution from nonvehicular sources have been impressive. As the following Los Angeles Times story notes, the Los Angeles basin has apparently eliminated all pollution eminating from powerplant smokestacks, and says:

The automobile is now contributing more than 90% of the total tonnage of pollutants in Los Angeles air.

The article follows:

LOS ANGELES AREA CALLED FREE OF POWERPLANT SMOKE—THOUSANDS OF COMPLAINTS CUT TO ONE BY USE OF LOW-SULFUR FUEL OIL, FULLER DECLARES

(By George Getze)

Smoke and chemical fallout from electric power plant smokestacks have disappeared "almost miraculously" in the Los Angeles Basin, Louis J. Fuller, head of the Air Pollution Control District, said Tuesday.

Instead of the usual thousands of complaints of smoke plumes and fallout that have poured in on the APCD, there was only one complaint last winter and spring, Fuller said.

He said the drastic change was due to the burning of low-sulfur fuel oil when not enough natural gas was available in cold weather.

Fuller said the APCD now forbids the burning of any fuel oil when natural gas is available. But until federal regulations were changed to permit the importation of low-sulfur oil from Indonesia, cold weather meant that high-sulfur domestic oil was burned.

The federal permission to bring low-sulfur oil into the United States is good only through next winter. Fuller said the APCD has already begun to fight for permanent permission.

"In view of the tremendous improvement in plumes and fallout, it is unthinkable that permission to bring in low-sulfur oil should not be continued," Fuller said.

DENIES RELAXING FIGHT

The APCD chief's remarks were made in an interview in which he replied to charges that the APCD had relaxed its fight against stationary sources of smog in the Los Angeles basin.

The accusation has been made twice recently, once last month before the Board of Supervisors and once last week before the State Air Resources Board, by a group of women called Stamp Out Smog.

They said that smokestacks were "mushrooming," that the county's air pollution control is no longer the model for the rest of the world, that it is going backward instead of forward, that variances to APCD rules are granted wholesale and that smog control officers have lost the energy and initiative they had 10 years ago by not following through on a suggested rule that would have prevented the construction of more power plants in Los Angeles County.

Fuller said it's nonsense.

Smokestacks, thanks to the APCD's fight to provide low-sulfur fuel, don't smoke in Los Angeles County, so that any remark about their "mushrooming" is meaningless, he said.

"Our control of stationary sources is more of a model for the rest of the world now than it ever was," Fuller said.

"It is accepted as a model everywhere. Within the year the U.S. Public Health Service published an air pollution engineering manual based on knowledge and technology developed by the Los Angeles APCD," he said.

Another example he cited was the federal government's publication of a field operations manual describing APCD enforcement practices as models for other agencies throughout the world.

So far, APCD is the only district in the world to have begun the regulation of such inconspicuous sources of air pollution as the evaporation of volatile organic solvents used in paints, inks and dry-cleaning compounds, he said.

APCD was also responsible for the drafting of the new state law regulating the emission of black smoke from jet airplanes, Fuller said. It will go into effect Jan. 1, 1971, in order to give the airlines time to comply.

SAYS VARIANCE MISUNDERSTOOD

Fuller said the matter of variances to these rules is misunderstood. The APCD grants no variances. They are all granted by the Air Pollution Hearings Board, created by the State Legislature.

He said air pollution experts realize it is often impossible for companies to comply immediately with new rules, and that they must have time to get new equipment or modify what they have.

Many of the current variances, for example, have been granted to give firms time to comply with Rule 66, the one governing the evaporation of organic solvents. Fuller said any fair examination of the variances that have been granted would show no maladministration by the hearing board, but instead a very careful regard for the public welfare.

He said the evaluation of emissions from automobiles and stationary sources shows that the control of stationary sources is excellent, and that the automobile is now contributing more than 90% of the total tonnage of pollutants in Los Angeles air.

"The remaining problem in Los Angeles is almost entirely with the automobile, although that can't be said for some other counties in the Bay Area and farther north," he said.

Latest statistics show that 9,695 tons of carbon monoxide are emitted here by automobiles every day, compared with 35 tons by stationary sources. The figures for hydrocarbons are 1,820 tons from the automobile, and 730 tons from stationary sources.

Fuller agrees with A. J. Haagen-Smit, chairman of the Air Resources Board, that one of the biggest problems is the control of nitrogen oxides, which are the product of all kinds of burning.

Nitrogen oxides are an important emission of stationary sources such as power plant smokestacks, but figures submitted by the Air Resources Board last week show that even with them industrial burning is a less important source than automobiles.

The ARB report shows that daily emissions of nitrogen oxides in Los Angeles are 939 tons, of which 575 come from auto exhausts and 258 from industrial burning of fuel. Other sources are minor.

To control the nitrogen oxide emissions from power plants, Fuller a year ago suggested a new APCD rule, No. 67.

In a letter to the supervisors, he said the rule would prevent construction and operation of new "monster" power plants or any other fuel-burning installation unless they were equipped with very efficient pollutant controls.

The suggested rule would have forbidden the operation of any equipment unless discharges into the atmosphere were limited to 200 pounds an hour of sulfur compounds, 140 pounds an hour of nitrogen oxides and 10 pounds an hour of dust or "particulate matter."

Stamp Out Smog has accused the APCD of losing initiative and energy because it has not followed up this suggestion by pressing the supervisors.

Fuller said Tuesday that he had decided, after conferring with the Department of Water and Power, that the rule is not necessary now.

He said the department was adding one boiler to the Scattergood plant at Playa del Rey, and that though it would contribute oxides of nitrogen, it would permit the phasing out of older boilers that contribute more.

In any case, no move is under way to build any of the "monster" power plants he had in mind when he wrote to the supervisors.

"If Rule 67 should become necessary I won't hesitate to submit it to the supervisors," Fuller said. "I am waiting now to see whether or not it will be needed. If it is, it is all ready."

To show an overall perspective of the air pollution problem—with special emphasis on the particular situation in Los Angeles—I would like to insert the following series of articles from the Los Angeles Times. Taken as a whole, the picture thus presented in them does not seem overly optimistic, and, indeed, the outlook I get is not extremely promising—given the laggard rate at which society seems to be energizing its resources in this critical struggle just to maintain the current quality of our air.

The articles follow:

NO MORE ALERTS OR EYE IRRITATION, EXPERTS SAY: 1970'S EXPECTED TO BRING VICTORY OVER SMOG

(By George Getze)

The 1970s will be the decade of realization in Los Angeles County's long fight against air pollution.

By 1980 most cars and trucks on the road will be equipped with control systems that meet the standards set by the California Pure Air Act.

It will take that long because of the time lag in used cars, but, according to the Air Pollution Control District, by the end of the '70s the air of the Los Angeles basin will have 83% less hydrocarbons than it has now. There will be no more smog alerts they say, and eye irritation will be rare.

Visibility obviously will be better although the brown haze of nitrogen dioxide still will be seen occasionally. Oxides of nitrogen in the atmosphere will have decreased 41%.

The APCD says these results will depend on state and federal insistence that automobile makers manufacture cars and trucks with exhaust control systems efficient enough to meet the strict California standards that will all be in effect by 1974.

The accompanying graph shows the status of automobile air pollution as the 1970 decade begins.

The number of cars in the county is increasing and will continue to increase. This increase amounts to 31% in the nine years since 1960.

Despite that, the exhaust and other controls already in effect have resulted in decreases in two of the chief pollutants of Los Angeles basin air—hydrocarbons and carbon monoxide, both of which have been declining since 1965.

DECREASE OF 16 PERCENT

The decrease in hydrocarbons since the peak amounts to 16%. (To appreciate what has been accomplished one must consider what might have been if control had not been begun. If the emissions of hydrocarbons had risen in the same proportion as the number of automobiles, the daily tonnage of hydrocarbons in the atmosphere would now be 2,500 instead of 1,645.)

The decrease in carbon monoxide amounts to 12%. (It would be 11,380 tons a day instead of 9,100 if the present controls had not been applied.)

But as has been pointed out many times, the act of controlling hydrocarbons and carbon monoxide has improved combustion, and this has tended to make automobile emissions of nitrogen oxides worse.

This improved combustion with the increasing number of cars, accounts for nitrogen oxide emissions rising by 66% since 1960.

Controls are about to be applied to them, too, even though the automobile industry is protesting that it can't do the job on schedule. The state's answer is that it will have to if it wants to sell cars in California.

Here are the auto emission standards that will be in effect for all 1974 model cars sold in California:

Hydrocarbons—1.5 grams per mile, of 125 parts per million, beginning in 1972. (The standard for 1970 model cars is 2.2 grams per mile, or 180 ppm.)

Carbon monoxide—23 grams per mile, or about 1% by volume of exhaust gas, beginning with 1970 models.

Nitrogen oxides—1.3 grams per mile, or about 350 ppm, beginning with 1974 models. (There will be no standard for 1970 models, but 1971 models will have a standard of 4 grams of nitrogen oxides per mile, or about 1000 ppm, and 1972 and 1973 models must emit no more than 3 grams per mile, or 800 ppm of nitrogen oxides.)

Clean air in Los Angeles, even with control of automobiles as projected in the Pure Air Act and enforced by the Air Resources Board, would not be possible without control of stationary sources.

CARS WORST OFFENDER

By far the greater part of Los Angeles County air pollution comes from the automobile, but that is only because the APCD has been applying controls to stationary sources for more than 20 years.

The measure of success is evident in the fact that 88% of Los Angeles pollutants comes from cars.

Ninety-eight per cent of carbon monoxide, 68% of nitrogen oxides, 68% of hydrocarbons and 41% of dust (particulate matter) comes from automobile exhausts, crankcases and evaporation from gas tanks.

That is why control of the automobile emissions in the 1970s plus continued improvement of the control of remaining stationary sources, should bring blue skies and clean air back to Los Angeles basin.

BUT THERE WILL STILL BE SMOG

(By Irving S. Bengelsdorf, Ph. D.)

A razor blade company once ran a humorous ad showing a young man, his face lathered, falling off a skyscraper. As he fell, he was shaving himself and saying. "By using Company X's razor blade I save 11.4 seconds each morning when I shave."

This certainly was an interesting short-range statistic, but as far as his long-range future was concerned—as he plunged earthward to imminent doom—it was most irrelevant.

The same is true of the long-range future of smog in southern California. Although our air now is so filthy that for more than half the year it exceeds the air quality standards for certain pollutants set by the State Department of Health, we are told that by having this or that emission control on automobiles of smokestacks, we now prevent many tons of pollutants from getting into the air. Irrelevant. We still have smog.

We once were told by the now defunct Motor Vehicle Pollution Control Board that we would "Return to the Clean Air of 1940." One need not be very clairvoyant to look at Los Angeles in 1969 and realize that very little—surely not the air—is going to return to the way it was in 1940.

Now we are told that by the 1980s blue skies and clean air will come back to the Los Angeles basin. The new stricter standards for automobile emissions—to be in effect by 1974—will do the job. This is based upon the assumptions that cars coming from Detroit after 1973 will meet the stricter California emission standards, and that they will continue to do so as they age and are driven thousands of miles. We have no guarantee that either assumption is valid.

But, let us suppose that cars after 1973 do, indeed, meet the stricter emission standards. In 1980, it is estimated, there will be at least about 5.2 million cars in Los Angeles county. About half of these 5.2 million cars will be tossing out 1.3 grams of nitrogen oxides per mile—the strict California emission standard beginning in 1974. The other half—those cars built before 1974—will be putting out three, four, or more grams per mile.

But, let us assume that *all* 5.2 million cars in 1980 put out only 1.3 grams of nitrogen oxides per mile. Each car, on the average, will burn about two gallons of gasoline per day. Assuming an average mileage of 15 miles per gallon, each car should travel about 30 miles per day.

Thus, 5.2 million cars travelling 30 miles per day, putting out 1.3 grams per mile, would toss out about 203 million grams of nitrogen oxides per day. With 454 grams in a pound, and 2,000 pounds per ton, the 5.2 million cars would spew out about 225 tons of nitrogen oxides per day.

How much of each pollutant has to be present in Los Angeles air to make smog appear? Some calculations indicate that smog can be present in the basin if there are between 200 and 250 tons of nitrogen oxides per day. Since automobiles will account for most of this by themselves in 1980, there isn't much room left in the air to accommodate the nitrogen oxides pouring out of smokestacks of power plants generating electricity. And the demand for electricity in this area has been doubling almost every nine years.

For the long-range future of the southern California air resource, the willy-nilly patchwork approach of an emission control device here, and another there, will not work.

Five years ago, in a statewide conference entitled "Man in California—1980s," Dr. Philip A. Leighton, emeritus professor of chemistry at Stanford, warned, "Air pollution may be likened to a weed. Controls may clip back the weed but they will not keep it from growing up again. To kill the weed we must get at the root, and the root of the whole problem of general air pollution is combustion (burning)."

It should be obvious that if we are to attain a population of 18 million people in the Los Angeles megalopolis by the year 2000, as predicted by some, we must begin now to change drastically both our ways of personal transportation and the generation of electrical energy.

Experts Solve Smog Puzzle, Create Another

(By George Getze)

Engineers and scientists have to face up to a very basic chemical fact in going about the job of trying to control Los Angeles smog.

It is this: One of the chief ingredients of photochemical smog, the hydrocarbons or organic gases, is the result of inefficient and incomplete combustion, but the other two, sunlight and the oxides of nitrogen, are not.

The oxides of nitrogen, in fact, are the natural result of combustion and the more efficient that combustion is the more oxides of nitrogen are produced.

When California authorities forced automobile makers to begin controlling hydrocarbon and carbon monoxide emissions they went about it by increasing the efficiency of gasoline combustion.

This was accomplished by adjusting the carburetor to a "leaner" mixture of air and gasoline—that is, more air and less gas.

Oxides of Nitrogen Rise

It has worked, and hydrocarbons and carbon monoxide emissions from automobiles have diminished.

Another, not so pleasant, effect of more efficient automobile engines has been to increase automobile emissions of oxides of nitrogen.

This is because the atmosphere of the earth is almost entirely nitrogen and oxygen—about 80% and 20%, respectively. The two gases are physically mixed in the atmosphere but not chemically united.

When air is subjected to high temperatures, as it is when it is burned in an engine or furnace, the two gases of the atmosphere combine to form nitric oxide—one atom, of each.

This happens no matter what fuel is burned. Nitric oxide will form if hay or carrots, or any other conceivable fuel, is burned.

(Tobacco, for example, produces nitric oxide when burned. Taking a drag off a cigaret gives the smoker a jolt of 500 parts per million—about the same that he would get if he stuck his head in a power plant smokestack and took a deep breath.)

The more air exposed to the heat and pressure, the more atoms of oxygen and nitrogen combine.

Sixty-Eight Percent Due to Autos

That is the most important reason the burning of gasoline in a "leaner mixture" has resulted in an increase of nitrogen in Los Angeles air.

Another reason is that automobiles produce about 68% of these oxides emitted daily in the basin. Electric power generating plants are the next biggest contributor, with 135 tons daily or 14%, compared to 645 from motor vehicles, followed by relatively minor sources—the oil refineries (40 tons daily or 4%) and the heating of homes and offices (65 tons daily in cold weather or 6.5%).

Unfortunately, the process of smog formation is not complete with the emission of nitric oxide.

Nitric oxide, when it gets into the air from an auto exhaust or power plant smokestack, reacts chemically by picking up another atom of oxygen to form nitrogen dioxide.

This is the pollutant that is one of the essential components of photochemical smog. It also is the one that causes the ugly brown haze.

In the absence of light, this chemical reaction is a slow one. When it takes place in bright sunlight, especially in the presence of the organic gases, or hydrocarbons, the reaction is rapid and thorough.

Controlling the oxides of nitrogen, it is clear, is not a matter of improving efficiency of combustion. It is a problem of an entirely different kind.

As long as there is any burning at all, oxides of nitrogen are bound to be present in the air.

All that it will be possible to do, short of doing away with Los Angeles altogether, is to ameliorate conditions.

The Air Pollution Control District, however, expects this amelioration to be substantial.

The APCD estimates that by making certain changes in the automobile engine and by strict enforcement of emission standards already set, the oxides of nitrogen in the basin's atmosphere can be reduced 41% by 1980.

That will not be perfect. Alerts probably will be a thing of the past, but Los Angeles still will occasionally have brown haze and eye irritation even then.

Still, it will be quite an amelioration.

Two methods have been suggested for reducting the oxides of nitrogen emitted from auto exhausts.

Robert McJones, a consulting automotive engineer for the Pacific Lighting Corp., recently testified at a federal public hearing that retarding the spark would cut nitric oxide emissions 40%.

Retarding the spark reduces the peak temperatures in the cylinders and, consequently, less nitric oxide is formed.

Although representatives of the automobile industry who attended the hearing acted as though they had never heard of such a thing, retarding the spark is now considered the most likely step the industry will take to meet the California emission standards for 1971 model cars.

The 1971 limit for cars sold in California will be 1,000 parts of nitric oxide per million parts of exhaust gases.

To meet the much stricter 1972 and 1974 standards (800 ppm and 350 ppm) something else will have to be done.

One way that has been suggested is to lower the temperature of combustion by recirculating 15% or so of the exhaust gas so that it goes through the engine a second time, after the oxygen in it has been used up.

This inert, recirculated exhaust gas sops up some of the heat in the cylinder—and thus also effectively the nitric oxide.

The Price of Clean Air

"The main battle against smog has been won."—Charles M. Heinen, chief engineer, emission control and chemical development, Chrysler Corp., April 9.

"The peak output of automobile-produced smog in Southern California definitely has passed—and will never be as high again."—Dr. Fred Bowditch, director of emission control, General Motors, Aug. 5.

"The third consecutive smog alert was called Friday in the Los Angeles Basin as a blazing sun continued to cook pollutants in the air."—The Times, Aug. 23.

There is a kind of grim irony in the recent public concern over the potential threat from transportation and storage of military poison gases.

City dwellers throughout the nation already are slowly poisoning themselves by inhaling the air polluted by automobiles. The threat is actual and still unabated.

Nowhere is the peril of auto-caused air pollution more serious than in the Los Angeles Basin.

At least 10,000 persons leave each year on the advice of their physicians. The millions that remain simply suffer and complain that "something must be done."

Something has been done. But not enough and not quickly enough.

Although emission control regulations have brought about a reduction in the total amount of hydrocarbons and carbon monoxide, experts say the skies over Los Angeles will not be substantially cleared of pollutants until 1980.

That timetable, however, could be accelerated—if smog sufferers would pay the price.

Air pollution control can be as strict as the people want it to be. California demonstrated that public pressure is stronger than all the auto industry lobbyists when it forced Detroit to install smog control devices.

Congress also was responsive to the collective outrage of Southern Californians who demanded that this state be allowed to set tougher emission standards than the federal requirements.

Although Detroit complains, it will comply with the increasingly stringent regulations set by the Legislature for new cars in the 1970 model year and subsequently. No industry wants to give up its biggest market.

But even with improved devices, the fight against smog moves slowly because a majority of the cars in the Los Angeles Basin still have no exhaust control system at all. The total of motor vehicles in the basin, moreover, increases by nearly 10% every year.

To achieve a substantial improvement in air quality, therefore, every one of the more than 4 million cars and trucks in Los Angeles County must be equipped with an emission control device in proper working order.

This would mean that every owner of a pre-1966 vehicle would have to assume not only the initial cost of such a device but also the expense of maintenance and at least annual inspection. In Los Angeles County alone, the total price would amount to hundreds of millions of dollars.

The Legislature mandated installation of control equipment on used cars but only if two acceptable devices were available and if their cost did not exceed $85. Neither condition has been met.

Much more must be done to develop feasible inspection of the control systems installed at the factory. Unlike the crankcase blowby, these devices cannot be properly inspected with a quick look under the hood.

So long as the public insists on buying big cars with excessive horsepower, the fumes they produce can be reduced only by better control equipment subject to periodic maintenance and inspection—until there is a major breakthrough in engines or fuel.

Detroit says that turbine or steam engines or one powered with natural gas are not yet practical and may never be. Oil companies similarly offer little encouragement that pollution can be reduced by modifying present fuels.

Perhaps. But if the public outcry were loud enough, more action would be motivated in industry—and in government. Why is not the federal government doing more independent research in these two areas?

The ultimate cure was proposed by State Sen. Nicholas Petris (D-Alameda) when he proposed that the internal combustion engine be outlawed in California in 1975.

Not long ago, his bill would have drawn nothing but laughter from his colleagues. This year it passed the Senate and had support in the Assembly before being defeated.

Life without one—or two or three—cars seems unthinkable to most Southern Californians. But life may be unbearable if auto-caused air pollutants are not drastically curtailed, and before 1980.

The air can be made cleaner, just as other kinds of environmental pollution can be controlled. But smog will not diminish until the public demands—and supports—corrective action.

Expert Says Cities Don't Have Choice Between Clean, Dirty Air—Canadian Economist Tells Science Meeting Urban Areas Must Decide What Degree of Contamination Is Acceptable

(By George Getze)

Los Angeles and other modern cities do not have the choice of clean air or dirty air.

The realistic question they must answer, according to a Canadian economist, is what degree of contamination will be found acceptable.

R. M. Clinkscale said Monday at the Anaheim Convention Center that the quality of air available to every city will be a compromise in pollution.

"The only total answer to air pollution is to put an end to all combustion," Clinkscale said in an interview.

"Nobody wants to take that drastic a cure, and nobody who realizes what would be to put an end to all combustion," Clinkscale said.

He was a speaker Monday at the 15th annual technical meeting of the Institute of Environmental Sciences. Theme of the 1969 meeting is man in his environment.

"There is a basic conflict between those who want to use the air for basic life support, and those who want to use it for waste disposal," Clinkscale said.

He does not think the polluters should necessarily have to pay the whole bill for cleaning up the air as much as is possible.

"There is no market mechanism to re-

solve that conflict," he said. "That is, there is no economic method that would solve the problem of pollution through the ordinary workings of profit and loss.

"You can't buy and sell clean air, and there is no profit incentive for a firm to pay for waste disposal when it doesn't have to," he said.

In Southern California, Clinkscale pointed out: the polluters and the people who want the air chiefly to breathe are the same people—the automobile drivers.

Clinkscale does not think many local communities have really thought this out, especially how much it will cost.

Los Angeles, he said, has done far more than any other city in the world, but even in California it has not been entirely decided how cleaning up the air will be paid for.

For instance, Clinkscale said, strict control of automobile emissions will not be enough. There will have to be periodic inspections of the control devices and systems to be sure they are working properly. Such inspections will be expensive.

"Every community or air basin will have to decide what level of air quality it will enjoy—and how that quality will be paid for," Clinkscale said.

"It's the paying for it that will determine the quality."

THREAT TO SURVIVAL, SCIENTIST WARNS: AIR POLLUTION PERIL: ICE AGE OR HOT HOUSE

(By George Getze)

Continuing air pollution will bring about one of two conditions—both highly unpleasant and both dangerous to man's survival on earth, according to Dr. A. J. Haagen-Smit, chairman of the Air Resources Board.

Dr. Haagen-Smit said Wednesday that one result of air pollution may be to produce the famous "greenhouse effect" that would heat up the earth's atmosphere and make earth more like Venus is thought to be.

The other possibility is for the increasing amount of pollution particles in the atmosphere to act like a screen to keep out the sun's rays, resulting in a drastic lowering of the temperature and a new period of glaciers.

Scientists are worried about both possibilities, with some considering the cooling off more likely and others the heating up.

"We don't know yet which school is right," Dr. Haagen-Smit said.

"But we'd better do something before we've either melted the polar ice caps and flooded the world's biggest cities, or before we have to suffer through an era of glaciation."

Dr. Haagen-Smit is professor of bioorganic chemistry at Caltech and the scientist responsible for fixing the blame of Los Angeles smog on the automobile.

It was he who discovered the chemical make-up of photochemical smog; that is, smog that is the result of the effect of light on organic pollutants in the atmosphere.

He said this generation is seeing important man-made changes in the atmosphere of earth.

"In burning the fossil fuels of coal, oil, and gas, we are increasing the carbon dioxide in the air by about .03 percent every year. This concerns many scientists who predict a rise in temperature because of the insulating effect of carbon dioxide."

Dr. Haagen-Smit said other experts point out that the increase of the load of particles carried in the atmosphere (that is, its general dirtiness) could lead to a decrease in temperature because of increasing reflection of the sun's rays by this layer of particles.

"Our ancestors lived in the happy certainty that the earth was infinite, that there was enough soil, water and air to go around forever," he said.

"But now, looking at the earth from an astronaut's vantage point, we have begun to realize that the earth isn't so big, and that the apparent stability applies only to our own time, an infinitely small thing in the time scale of geologic changes," Dr. Haagen-Smit said.

Dr. Haagen-Smit spoke at the international symposium on man and beasts sponsored by the Smithsonian Institution in Washington, D.C.

SMOG PERILING DESERT AS HEALTH SITE, STATE TOLD—RIVERSIDE COUNTY OFFICIAL SEEKS HELP TO HALT FLOW OF POLLUTION THROUGH PASS

(By George Getze)

Air pollution upwind from the Coachella Valley may mean the "twilight of the desert" as a health and recreational area, a Palm Springs man Tuesday told the State Air Resources Board.

Fred Metheny, representing the Regional Anti-Pollution Authority of Riverside County, asked the ARB for "protection from the smog invasion from the west."

San Gorgonio Pass, Metheny, said, is like a shotgun aimed at the hearts of Palm Springs, Palm Desert, Indian Wells, Desert Hot Springs, Indio and other towns in the desert.

The lethal ammunition is smog from Riverside, Fontana, Los Angeles and other areas west of the low desert valleys, Metheny said.

Metheny was a witness before the ARB in the first of a series of public hearings to discuss air quality standards for the whole state. Other hearings will be held in San Francisco, Sacramento, San Luis Obispo and Eureka.

OPPOSED TO CONSTRUCTION

Metheny said the desert communities which banded together in the anti-air pollution authority are opposed to the construction of power stations, refineries and other industry in the Beaumont-Banning area in San Gorgonio Pass.

He asked Dr. A. J. Haagen-Smit, chairman of the ARB, for advice on how to prevent their construction.

Dr. Haagen-Smit said he had asked the attorney general's office what could legally be done by one community to control air pollution in a neighboring community.

His advice to Metheny and the desert communities was to make their own air quality standards as strict as possible, and then try to persuade the Riverside County Board of Supervisors to refuse permits for industrial construction in the pass.

If that doesn't work, the question will have to be worked out in the courts, Dr. Haagen-Smit advised.

He said enforcement of air quality standards throughout the state will alleviate the problem faced by the resort communities that are subjected to the air pollution of industrial neighbors upwind.

The ARB, Dr. Haagen-Smit said, is considering setting air quality standards for six pollutants. They are oxidants (including ozone), carbon monoxide and nitrogen dioxide, all important elements of automobile smog like that in Los Angeles, and sulfur dioxide, hydrogen sulfide and man-made dust, which the Air Pollution Control District has largely controlled in Los Angeles but which are serious nuisances elsewhere.

WORK OFF STANDARDS

The standards being considered were worked out by the State Health Department and the ARB's technical advisory committee, and are as follows:

Oxidants (including ozone), a density of .10 parts per million lasting an hour.

Carbon monoxide, .20 ppm for 8 hours.

Sulfur dioxide, .10 ppm for 24 hours, or .50 ppm for 1 hour.

Particulate matter, or dust, enough to reduce visibility to 7½ miles on the smoggiest days.

Hydrogen sulfide, .03 ppm for 1 hour.

Nitrogen dioxide, .25 ppm for 1 hour.

Dr. Haagen-Smit explained that when these standards have been adopted it will be the duty of the ARB to see to it that local and state authorities enforce them.

Local communities, such as Palm Springs, may have standards stricter than those adopted by the state.

The oxidant, or ozone, level is the one used to determine the degree of smog in Los Angeles and the one on which smog alerts and the new special school warnings to reduce exercise are based.

In a special report presented by the ARB Tuesday, downtown Los Angeles was shown to have had 175 days in 1967 in which the proposed oxidant level was exceeded. (That year is the most recent for which statistics have been completed.)

Azusa had 225 such days that year, Pasadena had 213; Burbank, 204; Pomona, 207; Anaheim, 152; Santa Ana, 69.

Salinas, in Monterey County, had 3; San Rafael, in Marin, had 17; San Francisco had 13; San Jose, 81; San Diego, 35; Sacramento, 49; San Bernardino, 173; Cucamonga, 217; Fresno, 88, and Oakland, 20.

Another table in the same report compared 1967 oxides of nitrogen emissions in four metropolitan areas.

Los Angeles-Orange County's daily emissions averaged 939 tons, of which 575 tons of oxides of nitrogen came from automobile exhausts; 40 tons from oil refineries, and 258 from industrial burning of fuel. Other sources were minor.

San Francisco-Oakland's daily emissions averaged 500 tons, of which 273 came from auto exhausts, 186 from industrial fuels and only 9 tons from oil producers.

San Diego's average daily tonnage of oxides of nitrogen was 173, 92 tons of which was from automobiles and 65 tons from industrial fuels.

The August-September issue of National Wildlife, the excellent publication of the National Wildlife Federation, contains a new feature called the EQ—Environmental quality—index. And, of the six components making up the total index—air, water, soils, minerals, forests, and wildlife—the quality of our Nation's air rates lowest. In making its rating, National Wildlife said this:

Air pollution is probably the most serious threat to our Environment Quality. It is a silent killer which hovers over every city in our nation and touches the creatures of the polar life zones.

So our Air Quality Index stands at very bad. The Trend: We are losing.

It is a frightening kind of pollution that colors our skies, burns our eyes, blackens our lung tissues, darkens our white houses, dissolves nylon stockings, corrodes metal, hardens rubber, and dust-coats everything. I must clean the apples from my trees. Rainwater is no longer good for washing hair, my daughters tell me.

And air pollution is worse than it looks. Particles are the only air pollution you can see; the deadly gasses are invisible. It is suspected that polluted air is a major factor in causing emphysema, bronchitis and lung cancer.

When London was hit by a four-day "killer smog" in December, 1952, the "excess death toll" was estimated at 3,500 to 4,000 persons. In 1948 a stagnant air mass over Donora, Pennsylvania, choked its 15,000 residents, killed 20 and made more than 6,000 sick.

Automobile exhaust is by far the greatest polluter, followed by home heating, industry, and the burning of garbage and other wastes.

Belatedly, some progress is being made to control it. The National Air Pollution Control Administration is attacking the problem on a regional basis, with primary responsibility for clean-up resting with state and local governments. The country is being divided into 57 Urban-Industrial Air Quality Regions and, hopefully, by the summer of 1970 local authorities will have set up air quality standards to be enforced by state and local officials. If they fail, the Federal government may then step in and enforce the standards.

All but four states—South Dakota, Nebraska, Alabama and Maine—have air pollution control laws now.

But that is only the start of the battle. It is amazing how little is known yet about the full effects of air pollution on human health, and how little we are spending to control it.

Air pollution is the more serious kind of pollution since once in the atmosphere man is helpless and must rely on nature to purify it. (And that means washing it down to our land, where it goes into our rivers and on to the sea.) As long as we are so short-sighted as to use the atmosphere as a garbage dump, our air will become dirtier and more dangerous.

The current quality of our air is a national disgrace. And America's automotive syndrome has been the major contributing factor to the steady decline of that quality. For years, Government attempted to use the carrot approach to entice auto manufacturers to do something about the problem, and for years, the manufacturers procrastinated as they claimed that they were indeed doing all they could do.

As I quoted in my letter to Attorney General Mitchell, Los Angeles County Supervisor Kenneth Hahn started writing the manufacturers back in the early 1950's, asking them what they were doing to ease the mounting smog. Each year or so, Hahn would write, and each time, he would receive back equally evasive answers. Finally, as Supervisor Hahn wrote in a letter to President Johnson:

I have found out that you cannot "cooperate" or urge them "voluntarily" to do the job.

And so, if the carrot does not work, it is time to use the stick. The stick was wielded by the Justice Department in bringing this important suit, and I hope it is used more and more as needed. But, to opt for a consent decree in this case would amount to dropping the stick altogether. Were that done, I am sure the results would be disastrous.

The time is short before the Justice Department makes its choice on the manner of deciding this suit. The need for a public trial is overwhelming. Already 20 or so Members have expressed their views on the necessity for this public hearing, and I would hope that similar sentiments are soon forthcoming from many more of my colleagues as well as from all citizens and organizations who are worried about the quality of our delicate environment.

September 16, 1969

RALPH NADER CRITICIZES CONSENT DECREE IN SMOG CASE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1969

Mr. BROWN of California. Mr. Speaker, last week the Justice Department took a giant backward step in the crucial struggle to maintain the quality of this Nation's atmosphere when it asked for a consent judgment in the antitrust suit brought against automobile manufacturers who were accused of conspiring to retard development of effective smog controls.

My view of the Justice Department action is that the Nixon administration sold out our right to have clean air so that automobile manufacturers can maintain sizable profit margins. Over the past weeks, I have attempted to impress both Attorney General Mitchell and Antitrust Division Chief Richard W. McLaren with the importance of holding an open public trial in this vital case.

Certainly I have not been alone in this effort. Many other concerned Members of the House, along with numerous individuals and organizations, also urged the Justice Department to call for an open trial. In two instances, there were interventions into the case from a large government unit, Los Angeles County, and a private group, ASH, as indications of the importance of the overall issues at stake. But, so far, all have been of no avail.

Under court proceedings employed in antitrust suits, the final decision by the district court will not be made until 30 days after the decree was requested, and during this period, the ledger is open for all concerned parties to attempt and contest awarding of the decree.

Major drives already are underway to try and sway the court and the Justice Department to reverse last Thursday's move, and instead ask for the open trial.

Today, I have received a letter written to Mr. McLaren by Ralph Nader in which Mr. Nader takes a deep and quite critical look at the consent decree itself, and at the larger issues which pervade this case.

I believe this letter serves as a penetrating blow to the Department's allegations that the decree contains all that the Government desired in its original complaint.

Therefore, I would like to put into the RECORD at this point three items: First, the Justice Department press release telling about the consent judgment; second, the consent judgment; and finally, Mr. Nader's letter:

DEPARTMENT OF JUSTICE RELEASE,
SEPTEMBER 11, 1969

The Department of Justice filed today a proposed antitrust consent decree prohibiting the four major auto manufacturers and the Automobile Manufacturers Association from conspiring to delay and obstruct the development and installation of pollution control devices for motor vehicles.

The decree also requires them to make available to any and all applicants royalty-free patent licenses on air pollution control devices and to make available technological information about these devices.

Attorney General John N. Mitchell said the decree, filed with the United States District Court in Los Angeles, would be submitted to the court for final approval in 30 days. Its provisions would become effective immediately thereafter.

The proposed decree, signed by General Motors Corporation, Ford Motor Company, Chrysler Corporation, American Motors Corporation, and the Association, would conclude a civil antitrust suit filed by the Department on January 10, 1969.

Mr. Mitchell said that the proposed decree "represents strong federal action to encourage widespread competitive research and marketing of more effective auto anti-pollution devices."

Mr. Mitchell said that a continuation of the suit—which may have taken years in court litigation—would have delayed Justice Department efforts to end the alleged conspiracy and its efforts to encourage immediate action by the automobile companies.

The Attorney General said that the consent decree should spur aggressive competitive research and development efforts by each auto company and by other companies, and therefore should prove to be a substantial benefit to the health and welfare of all metropolitan area residents—especially those in the Los Angeles Basin which has the most serious smog problem in the nation.

The Attorney General also said that the judgment is in line with the massive anti-smog program announced two weeks ago by Dr. Lee A. DuBridge, President Nixon's science advisor, at a meeting of the President's Environmental Quality Council.

Dr. DuBridge said, "Nowhere is there a greater need for urgency than in the field of air pollution, which affects directly the health and comfort of our people. I think speedy resolution of this case will promote competitive research and development in the design and installation of smog control devices and represents an important step forward in the fight against pollution."

The Department of Health, Education, and Welfare, which administers the Clean Air Act, and the representatives of the Air Resources Board of the State of California, have expressed satisfaction with the terms of the proposed consent decree.

Assistant Attorney General Richard W. McLaren, head of the Department's Antitrust Division, said the judgment represented a successful conclusion to a suit filed only eight months ago. He pointed out that the Government had achieved all significant relief sought in the complaint and all that could have been obtained after a full trial. In addition, he said, the Government had obtained certain relief pertaining to auto safety.

Moreover, Mr. McLaren noted that the public benefits of the decree will be realized immediately, instead of after protracted and uncertain litigation.

Main provisions of the proposed judgment are:

The auto manufacturers and the Association are prohibited from restraining in any way the individual decisions of each auto company as to the date when it will install emission control devices, and from restricting publicity about research and development in this field.

They are prohibited from agreeing not to file individual statements with governmental agencies concerned with auto emission and safety standards, and from filing joint statements on such standards unless the governmental agency involved expressly authorizes them to do so.

They are required to withdraw from a 1955 cross-licensing agreement and to grant royalty-free licenses on auto emission control devices under patents subject to the 1955 agreement to all who may request them. The Association is also required to make available all technical reports exchanged by the four auto producers in the past two years under the 1955 agreement.

They are prohibited from agreeing to exchange their companies' confidential information relating to emission control devices or to exchange patent rights covering future inventions in this area.

They are ordered to discontinue their joint assessment or patents on auto emission control devices offered to any of them by outside parties as well as their practice of requiring outside parties to license all of them on equal terms.

The original suit, charging violation of the Sherman Act, said the defendants and others delayed the manufacture and installation of auto emission control devices by agreeing to suppress competition among themselves in the research and development of such devices.

To this end, the suit asserted, they agreed that all industry efforts in this field should be undertaken on a noncompetitive basis; that each would install such devices only simultaneously with the others; and that they would restrict publicity about research efforts in the auto air pollution field.

The complaint charged that on at least three separate occasions the defendants agreed to try to delay the installation of auto emission control devices.

The suit also charged the defendants with having agreed not to compete with each other in the purchase of patent rights covering such devices from outside parties. The suit asserted that the defendants and others had agreed in 1955 to share their patents in this field with each other on a royalty-free basis. In addition, the suit said, they agreed to appraise jointly any patent for an emission control device offered to any one of them by an outside party, and each agreed not to accept a patent license from any outside party without insisting on equal treatment for the others.

Named as co-conspirators in the suit, but not as defendants, were Checker Motor Corporation, Diamond T Motor Car Company, International Harvester Company, Studebaker Corporation, White Motor Corporation, Kaiser Jeep Corporation, and Mack Trucks, Inc.

[United States District Court, Central District of California]

STIPULATION FOR ENTRY OF CONSENT JUDGMENT—CIVIL ACTION NO. 69-75-JWC

United States of America, Plaintiff, v. *Automobile Manufacturers Association, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation, Defendants*

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court at any time after the expiration of thirty (30) days following the date of filing of this Stipulation without further notice to any party or other proceedings, either upon the motion of any party or upon the Court's own motion, provided that plaintiff has not withdrawn its consent as provided herein;

(2) The plaintiff may withdraw its consent hereto at any time within said period of thirty (30) days by serving notice thereof upon the other parties hereto and filing said notice with the Court;

(3) In the event plaintiff withdraws its consent hereto, this Stipulation shall be of no effect whatever in this or any other proceeding and the making of this Stipulation shall not in any manner prejudice any consenting party in any subsequent proceedings.

Dated: September 11, 1969.

For the Plaintiff:

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ALLYN O. KEEPS,
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[United States District Court, Central District of California]

(CIVIL ACTION NO. 69-75-JWC)

(*United States of America, Plaintiff,* v. *Automobile Manufacturers Association, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation, Defendants*)

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on January 10, 1969, and the plaintiff and the defendants by their respective attorneys having severally consented to the entry of this Final Judgment without trial or adjudication of or finding on any issues of fact or law herein and without this Final Judgment constituting evidence or an admission by any of them in respect to any such issue;

Now, therefore, before any testimony has been taken and without trial or adjudication of or finding on any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged and decreed as follows:

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Antitrust Act, as amended.

II

As used in this Final Judgment:

(A) "Devices" means air pollution emission control designs, devices, equipment, methods, or parts thereof, for motor vehicles.

(B) "Restricted information" means all unpublished information of the type usually classified as company confidential concerning applied as distinguished from basic research in, or concerning the development, innovation, manufacture, use, sale or installation of Devices. It includes trade secrets, unpublished company policy, and other unpublished technical information for developing, making, improving, or lowering the cost of, Devices by a motor vehicle manufacturer. "Restricted information" shall not mean (i) information concerning basic research in gaining a fuller knowledge or understanding of the presence, nature, amount, causes, sources, effects or theories of control of motor vehicle emissions in the atmosphere, or (ii) information relating primarily to equipment, methods or procedures for the testing or measurement of Devices, or (iii) information for or resulting from the testing or measurement of production prototypes of

Devices of an advanced stage exchanged solely for such purposes. Information shall be deemed to be published when it is disclosed without restriction to the public, or to media of general circulation, or to the trade press, or to meetings of stockholders, dealers, or financial analysts, or to meetings of professional, scientific or engineering societies, or committees thereof, the membership of which is not limited to persons employed by defendants or by motor vehicle manufacturers, or to meetings called by representatives of Federal, state or local governments or agencies authorized to issue motor vehicle emission control regulations.

III

The provisions of this Final Judgment shall be binding upon each defendant and upon each of its subsidiaries, officers, directors, agents, servants, employees, successors and assigns, and upon all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to any transaction between or among a parent company, its subsidiaries, officers, directors, agents, servants and/or employees. Nothing in this Final Judgment shall have any effect with respect to any activities outside the United States which do not adversely and substantially affect the foreign commerce of the United States.

(A) Each defendant is enjoined and restrained from:

(1) Combining or conspiring to prevent, restrain or limit the development, manufacture, installation, distribution or sale of Devices;

(2) Entering into, adhering to, enforcing or claiming any rights under any provisions of any agreement, arrangement, understanding, plan or program (hereinafter "agreement") with any other defendant or manufacturer of motor vehicles or Devices:

(a) to exchange restricted information;

(b) to cross-license patents or patent rights on Devices which cross-license includes patents or patent rights acquired subsequent to the date of any such cross-license;

(c) to delay installation of Devices or otherwise restrain individual decisions as to installation dates;

(d) to restrict publicity of research and development relating to Devices;

(e) to employ joint assessment of the value of patents or patent rights of any third party relating to Devices;

(f) to require that acquisition of patent rights relating to Devices be conditioned upon availability of such rights to others upon a most-favored-purchaser basis;

(g) to file, in the absence of a written authorization for a joint statement by the agency involved, with any governmental regulatory agency in the United States authorized to issue emission standards or regulations for new motor vehicles or Federal motor vehicle safety standards or regulations, any joint statement regarding such standards or regulations except joint statements relating to (i) the authority of the agency involved, (ii) the draftsmanship of or the scientific need for standards or regulations, (iii) test procedures or test data relevant to standards or regulations, or (iv) the general engineering requirements of standards or regulations based upon publicly available information; provided that no joint statement shall be filed which discusses the ability of one or more defendants to comply with a particular standard or regulation or to do so by a particular time, in the absence of a written agency authorization for such a joint statement, and provided also that any defendant joining in a joint statement shall also file a statement individually upon written request by the agency involved; or

(h) not to file individual statements with any governmental regulatory agency in the United States authorized to issue emission standards or regulations for new motor vehicles or Federal motor vehicle safety standards or regulations.

(B) Nothing in this Final Judgment shall prohibit any defendant:

(1) from furnishing or acquiring any restricted information for the defense or prosecution of any litigation or claim;

(2) from entering into or performing under any otherwise lawful agreement with any other person or conducting *bona fide* negotiations looking to any such agreement:

(a) for the purchase or sale of specific commercial products;

(b) for the license of specific existing patent rights or from including in any such agreement provision for a nonexclusive grant-back of patent rights on improvements obtained by the licensee during the term of the license or a reasonable period thereafter; or

(c) for the purchase, sale or license of specific existing restricted information or specific engineering services relating to Devices or from including in any such agreement provision for a nonexclusive grant-back of patent rights on improvements obtained by the licensee during the term of the license or a reasonable period thereafter;

or from furnishing or acquiring any restricted information directly relating thereto;

(3) from entering into, renewing or performing under any otherwise lawful agreement with any nondefendant person, firm or corporation that does not account for more than 2% of world production of motor vehicle passenger car, truck and bus units in the calendar year preceding the entering into or renewing such agreement (See Appendix A); or

(4) from entering into, renewing or performing under any agreement which is submitted in writing to the plaintiff and to which plaintiff consents in writing.

(C) Nothing in Section IV(A)(2)(a) shall prohibit any defendant from engaging in any activity outside the United States reasonably necessary:

(1) to the development of, response to, or compliance with existing or proposed vehicle emission laws, regulations or standards of a foreign governmental body, or

(2) to the performance under any otherwise lawful agreement for the production of motor vehicles outside the United States with any person, firm or corporation not engaged in the production of motor vehicles in the United States at the time of entering into or renewing such agreement.

(A) Each manufacturing defendant is ordered and directed to exercise its right to withdraw from the AMA cross-licensing agreement of July 1, 1955, as amended, and to take such steps as are necessary to accomplish said withdrawal within one hundred twenty (120) days from the date of entry of this Final Judgment. Notwithstanding such withdrawal defendants may continue to exercise those rights and claims relating to royalty-free licenses under the cross-licensing agreement which have accrued up to the date of entry of this Final Judgment.

(B) Defendant AMA is ordered and directed to relinquish its responsibilities under the AMA cross-licensing agreement of July 1, 1955, as amended, within sixty (60) days from the date of entry of this Final Judgment.

VI

(A) Upon written request therefor and subject to the conditions set forth herein:

(1) Each manufacturing defendant is ordered and directed to grant to any person to the extent that it has the power to do so a nonexclusive, non-transferable and royalty-free license to make, have made, use, lease or sell Devices under any claim of any United States patent or any United States patent application owned or controlled by said defendant or under which it has sublicensing rights, which patent was issued or application was filed prior to the date of entry of this Final Judgment and licensed under the AMA cross-licensing agreement of July 1, 1955, as amended, provided that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license under this paragraph may provide for the payment of those same royalties to the defendant;

(2) Each manufacturing defendant shall grant to any licensee under (1) above, to the extent that it has the power to do so, an immunity from suit under any foreign counterpart patent or patent application for any product manufactured in the United States under the license for sale abroad or for any product manufactured abroad and sold in the United States, provided that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license may provide for the payment of those same royalties to the defendant; and

(3) Defendant AMA is ordered and directed to make available for examination and copying by any person the technical reports in its possession or control prepared or exchanged by defendants pursuant to said cross-license within two years prior to the entry of this Final Judgment, which are identified in Appendix B; provided that such person agrees to offer each signatory party to the AMA cross-licensing agreement of July 1, 1955, as amended, and any subsidiary thereof a nonexclusive license for a reasonable royalty and upon reasonable terms with respect to any patent or patent application, domestic or foreign, thereafter obtained or filed by such person or under which licensing rights are obtained by such person which is based upon or employs Devices licensed or about which information is supplied pursuant to such license or otherwise under this Section VI(A).

(B) Any existing licensee of any manufacturing defendant shall have the right to apply for and receive a license or licenses under this Final Judgment in substitution for its existing license or licenses from any manufacturing defendant, insofar as future obligations and licenses are concerned. Any licensee shall be free to contest the validity and scope of any licensed patent.

VII

Defendant AMA is ordered and directed to mail a copy of this Final Judgment to all signatories to the AMA cross-licensing agreement of July 1, 1955, as amended, and to all known domestic manufacturers of motor vehicles and motor vehicle engines within thirty (30) days from the date of entry of this Final Judgment, and to issue a press release to the domestic trade and business press relating the substance of the Final Judgment.

VIII

For the purpose of determining or securing compliance with this Final Judgment, duly-authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege, access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment, and subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters. Said defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

Section IV(A)(2)(a) and (g) of this Final Judgment shall expire ten years after the date of entry hereof, provided that plaintiff may apply to this Court for the continuation of one or both of said provisions, such application to be made not later than nine years after the date of entry of this Final Judgment.

X

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate in relating to the construction of or carrying out of this Final Judgment, for the modification or vacating of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

JESSE W. CURTIS,
U.S. District Judge.

APPENDIX A

Section IV(B)(3) of this judgment was prepared in reliance on the motor vehicle production statistics set forth in the following tables contained in Wards 1969 Automotive Yearbook (31st edition) published by Powers and Company, Inc., Detroit, Michigan, at page 14:

1968 WORLD MOTOR VEHICLE PRODUCTION

[20 leading countries]

	Passenger cars	Trucks and buses	1968 total	1967 total
United States	8,843,031	1,950,713	10,793,744	8,992,269
Canada	900,527	277,649	1,178,176	943,992
Total	9,743,558	2,228,362	11,971,920	9,936,261
Japan	2,055,821	2,030,005	4,085,826	3,146,486
West Germany	2,535,433	571,525	3,106,958	2,482,319
United Kingdom	1,815,000	409,300	2,224,300	1,937,119
France	1,833,047	242,570	2,075,617	2,009,677
Italy	1,544,933	118,716	1,633,649	1,542,669
Argentina	127,865	53,011	180,976	175,318
Australia	340,000	75,000	415,000	390,119
Austria	2,200	2,350	4,550	4,383
Brazil	158,863	118,371	277,234	225,300
India	37,000	41,000	78,000	69,000
Netherlands	60,000	7,000	67,000	56,965
Mexico	102,967	37,192	140,099	123,751
Poland	40,500	39,600	80,100	61,400
Spain	311,531	81,902	393,433	362,906
Sweden	223,330	21,361	244,691	214,569
Czechoslovakia	126,009	50,200	176,200	164,000
Yugoslavia	50,400	13,680	64,080	60,000
U.S.S.R.	250,000	550,000	800,000	728,900
Total	11,614,930	4,462,783	16,077,713	13,754,468
Grand total	21,358,488	6,691,145	28,049,633	23,690,729

Note: Data for above tabulation drawn from best sources available. Statistics for some Red-bloc countries based upon monthly averages and are subject to slight change. U.S.S.R. for 1968 is an estimate based upon final 1967 counts.

WORLD MOTOR VEHICLE PRODUCTION—1968

[26 leading manufacturers]

Ranking	Manufacturer	Country	Cars	Trucks	Total 1968	Total 1967
1	GM	United States	4,592,077	828,978	5,421,055	4,798,301
2	Ford	do	2,396,924	623,272	3,020,196	2,122,841
3	Chrysler	do	1,585,591	173,769	1,759,360	1,565,561
4	Volkswagen	West Germany	1,449,533	100,400	1,549,933	1,162,258
5	Fiat	Italy	1,301,751	89,470	1,391,221	1,312,215
6	Toyota	Japan	659,189	438,216	1,097,405	832,130
7	BLM	England	807,067	179,204	986,271	646,318
8	Nissan	Japan	571,614	408,220	979,834	726,057
9	Renault	France	731,000	76,000	807,000	777,468
10	British Ford	England	553,701	108,017	661,718	526,987
11	Opel (GM)	West Germany	646,718	10,000	656,718	549,281
12	Toyo Kogyo	Japan	178,115	282,994	461,109	386,323
13	Citroen	France	383,000	77,600	460,600	500,030
14	Ford	Canada	287,286	157,815	445,101	295,779
15	GM	do	338,016	86,288	424,304	384,919
16	Peugeot	France	377,725	29,980	407,705	406,314
17	Mitsubishi	Japan	130,253	229,723	359,976	317,378
18	GM Vauxhall	England	244,918	97,222	342,140	290,706
19	Ford Cologne	West Germany	305,232	29,923	335,155	396,646
20	Honda	Japan	186,560	132,257	318,817	149,289
21	Chrysler Simca	France	317,248	0	317,248	248,574
22	Daimler-Benz	West Germany	216,000	68,857	284,857	254,128
23	AM Corp	United States	268,439	0	268,439	225,058
24	D. Kogyo	Japan	89,298	171,059	260,355	225,490
25	Chrysler	Canada	219,151	16,573	235,724	202,812
26	Chrysler Rootes	England	189,102	27,066	216,168	203,312

Note: Because both production and factory sales are used in the above tabulation, the above rankings are not absolute and could vary slightly. Data used represents vehicles produced in the indicated locations. Fiat excludes Autobianchi. Volkswagens excludes Auto Union. BLM was formed in 1968, hence its 1967 total represents BMC.

It is contemplated by the parties that Ward's Automotive Yearbook or any successor publication will be the source of the statistics necessary to the future interpretation of the provisions of Section IV(B)(3)

APPENDIX B

Pursuant to Section VI(A)(3) of the Final Judgment the following technical reports are identified:

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE, JANUARY 1968

1. Atmospheric Chemistry Panel Report
2. Diesel Emission Panel Report
(a) Proposed Standards for Motor Vehicle Exhaust Odor and Irritation—California Department of Public Health Bureau of Air Sanitation—March 1, 1966—8 pages
(b) Proposed Additions to the California Administrative Code—Standards for Motor Vehicle Emissions, State Board of Public Health Meeting June 10, 1966—prepared by the State of California Department of Public Health—May 4, 1966—6 pages
3. Ad Hoc Engine Deposits Panel Report
(a) A Proposed Program to Establish the Effect of Combustion Chamber Deposits on Exhaust Emissions—prepared by Engine Deposit Panel—January 3, 1967—19 pages
(b) Proposed Joint AMA—API Engine Deposits Program—September 14, 1967—7 pages
4. Engine and Vehicle Modification Panel Report
5. Exhaust Emission Measurement Panel Report
(a) EEMP—Status Report on Future Exhaust Emission Standards—undated—8 pages
6. Ad Hoc Group on Exhaust System Heat Report
7. Fuel System Emission Panel Report
(a) FSEP—Report of Fuel System Emission Panel to VCP—July 20, 1967—9 pages
(b) AMC Evaporation System—undated—6 pages
(c) Chrysler Closed Vent System—C.V.S.—prepared by Chrysler—undated—8 pages
(d) Crankcase Storage of Evaporative Emissions—prepared by General Motors Corp—October 25, 1967—9 pages
(e) Charcoal Canister Evaporative Emission Control System—prepared by General Motors Corp.—October 25, 1967—9 pages
(f) History of Evaporative Control Studies—prepared by Ford Motor Company—December 1, 1967—12 pages
(g) Crankcase Storage System for Control of Fuel Evaporative Emissions—prepared by Ford Motor Company—December 1, 1967—14 pages
(h) Carbon Air Cleaner Evaporative Control System—prepared by Ford Motor Company—December 1, 1967—9 pages.
8. Ad Hoc Health Committee Report
9. Heavy Vehicle Panel Report
(a) Differences between California and HEW Truck Test Cycles—prepared by Heavy Truck Panel—June 6, 1967—3 pages
10. New Devices Committee Report
11. Ad Hoc Traffic Survey Panel Report
(a) Comparison of General Durability Schedules—prepared by Ad Hoc Traffic Survey Panel—undated—1 page
12. Vehicle Emission Surveillance Panel Report
(a) Analysis of California Surveillance Data—prepared by the Auto Club of Southern California and Scott Research Laboratories—dated April 20, 1967—8 pages

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE, MAY 23, 1968

1. Atmospheric Chemistry Panel Interim Report
2. Engine and Vehicle Modification Panel Interm Report
3. Exhaust Emission Measurement Panel Interim Report
(a) State of California Air Resources Board—Specification for Simplified Instrument Console for Emission Measurements—13 pages—December 27, 1967
(b) State of California Air Resources Board—Test Procedure for Approval of Instruments for Garages, Vehicle Assembly Line and Field Station Use—March 6, 1968—8 pages
4. Fuel System Emission Panel Interim Report
(a) Laboratory Crosscheck Charts—undated—5 pages
5. Heavy Vehicles Panel Interim Report
(a) 1969 California Exhaust Emission Standard and Test Procedure for Heavy Trucks contained in the Federal Register publication of January 4, 1968—23 pages
6. Ad Hoc Traffic Survey Panel Interim Report
(a) Considerations in Traffic Survey and Test Cycle Development—NCAPC Meeting of March 29, 1968—prepared by the Ad Hoc Traffic Survey Panel—April 5, 1968—2 pages
7. Vehicles Emission Surveillance Panel Interim Report
(a) Hot vs. Cold Start Surveillance Testing—prepared by VESP—March 27, 1968—2 pages
(b) VESP Future Surveillance Program—undated—2 pages
(c) Summary of Analysis—undated—5 pages
(d) VESP reply letter (draft) to Mr. John Raymond of CMVPCB—May 7, 1968
(e) Effect of Tune-Up—undated—2 pages
8. Engine and Vehicle Modification Panel Reports
(a) 1970 California Evaporative Control Standard and Test Procedure for Passenger Cars contained in the Federal Register of January 4, 1968—23 pages
(b) Intake Valve Throttling (IVT)—A Sonic Throttling Intake Valve Engine—prepared by General Motors for the SAE meeting—May 20–24, 1968—11 pages
(c) EVMP—Present Status of Steam Power for Road Vehicles—May 8, 1969—11 pages
(d) Preliminary Test Results with Non-Flame After Burner Exhaust Manifold P4-134 cu. in. Engine—prepared by KAISER Jeep CORPORATION—May 5, 1968—5 pages
(e) Ad Hoc Subpanel—Valve Timing Proposal Submitted to EVMP—April 9, 1968—2 pages

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE, SEPTEMBER 27, 1968

1. Atmospheric Chemistry Panel Interim Report
2. Diesel Emission Panel Interim Report
3. Engine and Vehicle Modification Panel Interim Report
(a) Report on New Engine Idle Stability—prepared by EVMP members—September 10, 1968—18 pages
(b) Driveability Procedure—August 6, 1968—8 pages
(c) Vehicle Inspection Procedure for Emission Control Systems and Devices, Gasoline Powered Vehicles—Inspection Old Format—August 1, 1967—5 pages; Inspection—New Format—5 pages
(d) Mass Flow Data—prepared by Chrysler Corporation—September 10, 1968—11 pages
(e) EVMP Panel Report on 1968 Engine Idle Setting Procedures—July 10, 1968 Revision including Shop Manual Instructions Furnished by several member companies
(f) EVMP Valve Timing Proposal—undated—2 pages
(g) Excerpt from EVMP Memorandum Report dated June 11, 1968 on Catalytic Converters and Afterburners—1 page
(h) Catalytic Converters for Emission Control—prepared by Toyota Motor Company—August 6, 1968—8 pages
(i) Ceramic Exhaust Manifold Reactors—prepared by Ford Motor Company—August 5, 1968—7 pages
4. Exhaust Emission Measurement Panel Interim Report
(a) Status Report on Assembly Line Testing by EEMP—August 5, 1968—2 pages
(b) Report on Measurement Procedure for Nitric Oxide for California—1970 by EEMP—August 5, 1968—16 pages
(c) Report on Exhaust Emission Reactivity Criterion from the Atmospheric Chemistry Panel and the EEMP—July 30, 1968—6 pages
(d) Proposal—Exhaust Emission Correlation Program HEW—AMA Laboratories—prepared by EEMP Panel member—October 24, 1967—4 pages
(e) Fast Response Flame Ionization Instrument—letter prepared by Chrysler Corporation—dated June 19, 1968—2 pages
(f) Bay Toll Crossing Letter—answer sent to Mr. E. R. Foley by Mr. Sherman—August 21, 1968 with attachments—7 pages
5. Fuel System Emission Panel Interim Report
(a) Fuel System Emission Panel report on Proposed Test Procedure for the Determination of Liquid Fuel Losses from Vehicle Fuel Tanks—September 27, 1968—8 pages
(b) Fuel System Emission Panel report on Proposed Program for Circulation and Cross-Check of 1970 Evaporative Cars—September 27, 1968—2 pages
6. Heavy Vehicle Panel Interim Report
(a) Recommended Application Procedure for Certification of New Gasoline Engines for Use in Heavy Duty Vehicles 1970 Model Year—prepared by the National Air Pollution Control Administration—dated September 23, 1968—19 pages
7. Ad Hoc Traffic Survey Panel Interim Report
8. Vehicle Emission Surveillance Panel Interim Report

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE, DECEMBER 10, 1968

1. Atmospheric Chemistry Panel Interim Report
2. Engine & Vehicle Modification Panel Interim Report
(a) Driveability Demonstration—prepared by the Driveability Subpanel of EVMP—November 4, 1968—14 pages
(b) Summary—1969 Emission Control Systems as presented by the companies to the Engine and Vehicle Modification Panel—undated—12 pages

(c) Comments to ESC by the EVMP on the Feasibility of a Two Minute Emission Inspection System—October 14, 1968—3 pages

(d) AMA Recommendations in *AMA Inspection Handbook*, Section IX Vehicle Control Systems—5 pages—dated September 10, 1968

(e) Report of visit to New Jersey Inspection Station November 21, 1968—by the EVMP—7 pages

(f) Comments to ESC from EVMP on California Proposals for Emission Control Standards on 1970 and Later Model Vehicles—October 21, 1968—5 pages

3. Exhaust Emission Measurement Panel Interim Report

(a) EEMP comments and Recommendations to AMA ESC on California AB 357 Requirements for Assembly Line Testing for Vehicle Emissions—December 2, 1968—10 pages

(b) Letter from EEMP of September 6, 1968 to Mr. K. D. Mills at Willow Run and Mr. Mills answer of October 14, 1968 re AMA Exhaust Emission Measurement Correlation Program

(c) Fuel System Emission Panel and Heavy Vehicle Panel report to the Emission Standards Committee on Measuring Evaporative Losses—undated—4 pages

(d) Recommended Application Procedure for Certification of New Gasoline Engines for Use in Heavy Duty Vehicles—1970 Model Year—prepared by National Air Pollution Control Administration—September 23, 1968—13 pages

4. Fuel System Emission Panel Interim Report

5. Heavy Vehicle Panel Interim Report

6. Ad Hoc Traffic Survey Panel Interim Report

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE MARCH 27, 1969

1. Engine & Vehicle Modification Panel Interim Report

2. Exhaust Emission Measurement Panel Interim Report

(a) Report from Exhaust Emission Measurement Panel on California ARB proposed Assembly Line Test Procedure for Motor Vehicle Exhaust—January 28, 1969—6 pages

(b) Effect of Engine Intake Air Moisture on Nitrogen Oxides Emissions—prepared by Ethyl Corporation, March 14, 1969—23 pages

(c) Humidity Correction K Factor—prepared by Nissan Motor Company—undated—16 pages

(d) Mass Emission Test Procedures—undated—4 pages

(e) Effect of Fuel Composition (% Aromatics) on Exhaust Hydrocarbon Concentration—Based Upon DuPont data and a Report by GM dated January 22, 1969—5 pages

(f) Report on Measurement Procedure for Nitric Oxide for California—1970—prepared by EEMP—August 5, 1968—16 pages

(g) Critique—California AB 690 Test Method for Measuring Vehicle Exhaust Emissions on a Mass Basis—undated—4 pages

3. Fuel System Emission Panel Interim Report

4. Health Committee Interim Report

5. Heavy Vehicle Panel Interim Report

6. Ad Hoc Traffic Survey Interim Report

SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE JUNE 19, 1969

1. Heavy Vehicle Panel Interim Report

2. Atmospheric Chemistry Panel Interim Report

(a) Exhaust Emission Reactivity Criterion—prepared by the Atmospheric Chemistry Panel and the EEMP—May 28, 1969—6 pages

3. Vehicle Emission Surveillance Panel Interim Report

(a) Surveillance Data Summary—prepared by VESP—June 9, 1969—5 pages

4. Exhaust Emission Measurement Panel Interim Report

(a) Proposed Items of Discussion on May 12, 1969 at Willow Run—Prepared by Messrs. Mick, Fagley, and Hagen—8 pages

(b) Analysis of AMA data for HC Emissions during the Federal Cycle—prepared by Ethyl Corporation—June 2, 1969—8 pages

(c) Analysis of AMA data for HC Emissions during the California Cycle Tests—Changes to Improve Response Time—prepared by Chrysler Corporation—April 29, 1969—3 pages

(d) Proposal Exhaust Emission Correlation Program HEW—AMA Laboratories—prepared by Ford Motor Company—April 7, 1969—4 pages

5. Engine & Vehicle Modification Panel Interim Report

(a) Transmission Controlled Spark—An Evaluation of NOX Emissions—prepared by General Motors Corporation—April 15, 1969—10 pages

(b) Presentation on the Effect of Valve Overlap on Oxides of Nitrogen Emissions—prepared by General Motors Corporation—undated—6 pages

(c) IH Spark Advance Monitoring System—prepared by International Harvester Company—March 4, 1969—4 pages

(d) Performance of a Catalytic Converter on Non-leaded Fuel prepared by General Motors Corporation and published in SAE—undated—13 pages

(e) Comments on Performance of a Catalytic Converter on Non-leaded Fuel—prepared by Ford Motor Co.—presented before the SAE mid Year Meeting May 22, 1969—18 pages

(f) Panel Charge—prepared by J. P. Charles—dated May 27, 1969—1 page

(g) Engine Tune-up Data for 1970 Year Model Toyota Vehicles—prepared by Toyota Motor Company dated June 10, 1969—2 pages

(h) Engine Idle Setting Procedure—prepared by KAISER Jeep CORPORATION—undated—1 page

(i) Committee Correspondence re New Jersey Vehicle Emission Inspection—dated April 7th, May 8th, June 9th, 1969 describing telephone conversation with Mr. Elston

(j) Inspection Handbook Distribution—dated June 4, 1969

(k) Quality Car Care Schedule—prepared by Toyota Motor Company—undated—3 pages

(l) Layman's Nomenclature—undated—2 pages

6. Fuel System Emission Panel Interim Report

(a) Laboratory Cross-Check Program—prepared by Fuel System Emission Panel—May 5, 1969—11 pages

(b) Fuel Tank Heating Methods—prepared by Fuel System Emission Panel—May 5, 1969—22 pages

(c) Emission Control Calculations on Total Motor Vehicle HC & CO Emissions—dated June 17, 1969—3 pages

ADDITIONAL SUBCOMMITTEE REPORTS TO THE VEHICLE COMBUSTION PRODUCTS COMMITTEE, IN PREPARATION AND TO BE COMPLETED BY OCTOBER 31, 1969

1967 annual report of Engine & Vehicle Modification Panel

1. Status Report No. 5 of the Engine & Vehicle Modification Panel to the Vehicle Combustion Products Committee—1967—27 pages

2. Tables I and II on 6 Cylinder and 8 Cylinder Camshafts

Figure 1. American Motors Report on 8 Cylinder Camshafts—1 page

Figure 2. Field Survey of Combustion Testers

Figure 3. Response to Exhaust Gas with and without Air Injection using a Johnson-Williams Combustibles Analyzer

Figure 4. Variable Dilution System—Exhaust Gas (missing)

Figure 5. Blow-by Emission Measurement—prepared by New Jersey State Department of Health

Figure 6. 1968 Engine Information Decals

Figure 7. Cross Section of 199 C.I.D. Combustion Chamber—Quench and Low Quench

Figure 8. Cross Section of 232 C.I.D. Combustion Chamber—Quench and Low Quench

Figure 9. Head Gasket Bore Configuration user with Low Quench Engines 199 and 232 C.I.D.

Figure 10. Effect of Air-Fuel Ratio on Exhaust NO Concentrations for Various Speed-Load Combinations

Figure 11. Effect of Spark Timing on Exhaust NO Concentrations for Various Speed-Load Combinations

Figure 12. Effect of Intake Manifold Vacuum on Exhaust NO Concentrations for Various Air-Fuel Ratios

Figure 13. Effect of Coolant Temperature on Exhaust NO Concentrations for Duplicate Runs

3. Appendices:

(A) Camshaft and Valve Timing—EVMTG Proposal

(B) Proposed AMA Engine Idle Setting Procedures—EVMPTG June 27, 1967

(C) Reply to New Jersey Regarding State Vehicle Inspection by VCP—November 10, 1967

(D) Reply to Air Pollution Control Administration—December 22, 1966

(E) Bibliography of Papers on Emission Control Devices Submitted to EVMP by Member Companies

9168 annual report of engine & vehicle modification panel

1. Status Report No. 6 of the Engine and Vehicle Modification Panel to the Vehicle Combustion Products Committee—1968—23 pages

2. Appendices:

(A) Control of Oxides of Nitrogen—Chrysler Study Curves, data, and Sketches Illustrating Chrysler Studies in NO control.

(B) Exhaust System Devices for Emission Control—International Harvester Company.

(C) Vehicle Inspection Procedures

(D) 1969 Emission Control Systems

(E) Mass Flow

(F) Idle Setting Procedures—A detailed description of the shop manual procedures for each manufacturer

(G) Manifold Reactors—Preliminary Test Results with NonFlame After Burner Exhaust Manifold, F4-134 cu. in. Engine

(H) Air Injection Modifications—Toyota Motor Co., Ltd. Nippon Denso, Co., Ltd.

(I) Steam-Powered Road Vehicles—Present Status

(J) Valve Timing Proposal

(K) Driveability—Driveability Demonstration

(L) Comments on California 1970 Proposals

ENGINE AND VEHICLE MODIFICATION PANEL REPORTS

Date of presentation	Subject	Prepared by	Number of pages
1. Oct. 17, 1967	Combustion chamber quench changes, 1968 models.	Chrysler Corp.	1
2. Oct. 17, 1967	1968 Ford emissions systems	Ford Motor Co.	1
3. Oct. 17, 1967	Idle adjustments	Chrysler Corp.	1
4. Oct. 17, 1967	Idle mixture, effect of miles on idle speed, and timing changes.	General Motors Corp.	3
5. Oct. 17, 1967	Emission control by engine design and development.	American Motors Corp.	17
6. Nov. 15, 1967	New Jersey emissions inspection program.	EVMP	10
7. Nov. 17, 1967	Engine idle-setting procedures.	American Motors, Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp.	37
8. Dec. 5, 1967	Changes in idle speed re. mixture.	Ford Motor Co.	2
9. Dec. 5, 1967	Emission-control labels	Kaiser Jeep Corp.	1
10. Dec. 5, 1967	AMA-HEW exhaust flow equations.	EVMP	5
11. Jan. 2, 1968	Idle service instruction—2AS	Chrysler Corp.	1
12. Jan. 2, 1968	Exhaust volume measurements on cycle tests.	do	1
13. Dec. 5, 1967	Survey of emission control devices in use of 1968 models.	American Motors, Chrysler Corp., Ford Motor Co., General Motors Corp.	17
14. January 1968	Exhaust emission-control devices.	Kaiser Jeep Corp.	2
15. Jan. 4, 1968	Idle mixture, speed and spark timing adjustments.	General Motors Corp.	6
16. Jan. 2, 1968	Exhaust system devices for emission control.	International Harvester Co.	1
17. Jan. 2, 1968	Exhaust manifold reactors	do	3
18. Jan. 2, 1968	Heavy truck emission-control systems.	do	2
19. Dec. 15, 1967	Adjusting idle mixture	Ford Motor Co.	7
20. Feb. 13, 1968	Changes in idle tune during first 1,000 miles 1968 G.M. cars.	General Motors Corp.	1
31. April 4, 1968	Idle settings 4,000 miles or under.	Chrysler Corp.	1
32. May 8, 1968	Report on present states with steam powered road vehicles and their emission characteristics.	EVMP (Attachments A5, B3, C2, and D1).	
33. May 8, 1968	Preliminary test results with NonFlame afterburner exhaust manifold F-4—134 cubic inche engine.	Kaiser Jeep Corp.	
34. May 8, 1968	Valve timing proposal submitted to EVMP.	Kaiser Jeep Corp., General Motors Corp., Ford Motor Co.	2
35. June 11, 1968	1968 engine idle setting procedures.	American Motors Corp., Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Nissan Motor Co., Toyota Motor Co.	7
36. June 11, 1968	Vehicle inspection procedure for emission control systems and devices, gasoline powered vehicles.	American Motors Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Toyota Motor Co., Ltd.	5
37. July 10, 1968	1968 idle setting procedures shop manual instructions.	American Motors Corp., Chrysler Corp., Ford Motor Co., General Motors Corp., International Harvester Co., Kaiser Jeep Corp., Nissan Motor Co., Ltd., Toyota Motor Co., Ltd.	35
38. Aug. 6, 1968	Driveability procedure	EVMP	8
39. Aug. 6, 1968	Valve timing proposal	EVMP	2
40. Aug. 6, 1968	Catalytic converter for emission control.	Toyota Motor Co., Ltd.	8
41. Aug. 5, 1968	Ceramic exhaust manifold reactor.	Ford Motor Co.	7
42. Aug. 6, 1968	Throttle positioner	Toyota Motor Co., Ltd.	20

ENGINE AND VEHICLE MODIFICATION PANEL REPORTS—Continued

Date of presentation	Subject	Prepared by	Number of pages
21. Feb. 2, 1968	Decal code	Chrysler Corp	3
22. Feb. 9, 1968	Test data on catalytic system	Kaiser Jeep Corp	3
23. Feb. 13, 1968	Ceramic exhaust manifold reactors.	Ford Motor Co	4
24. Feb. 13, 1968	Test data exhaust emissions	Kaiser Jeep Corp	1
25. Mar. 12, 1968	Air control valve to improve running stability after starting on an air injected gasoline engine.	Toyota Motor Co. Ltd Nippon Denso Co. Ltd.	7
26. Mar. 12, 1968	Engines for Toyota 1968 models	Toyota Motor Co., Ltd	1
27. Mar. 12, 1968	Engine stalling on deceleration	Nissan Motor Co., Ltd	7
28. Mar. 12, 1968	Surface to volume ratio 4 cylinder vehicle.	Kaiser Jeep Corp	1
29. Apr. 4, 1968	Data on idle stability and exhaust gas volume of Toyota vehicles.	Toyota Motor Co., Ltd	5
30. Apr. 9, 1968	Mass flow data	Nissan Motor Co., Ltd	1
50. Sept. 7, 1968	Engine idle stability evaluation procedure.	Nissan Motor Corp	2
51. Sept. 10, 1968	Exhaust manifold reactors	International Harvester Co	4
52. September 1968	do	Nippon Denso Co., Ltd	3
53. Oct. 8, 1968	1969 emission control systems	Toyota Motor Co., Ltd	2
54. Oct. 10, 1968	AMA driveability demonstration.	EVMP	12
55. Oct. 7, 1968	1969 emission control systems	American Motors Corp	1
56. Oct. 8, 1968	1969 Chrysler cleaner air system compared to the 1968 system.	Chrysler Corp	3
57. Oct. 8, 1968	1969 emission control systems	Ford Motor Co	3
58. Nov. 1, 1968	Summary of 1969 G.M. exhaust emission control systems.	General Motors Corp	1
59. Nov. 12, 1968	1969 emission control systems	International Harvester Co	1
60. January 1969	Exhaust emission control systems.	Kaiser Jeep Corp	1
61. Dec. 17, 1968	Control systems for 1970	American Motors Corp	5
62. Dec. 17, 1968	Chrysler 1970 emissions controls	Chrysler Corp	5
63. Dec. 17, 1968	1970 emission-control systems	Ford Motor Co	4
64. Dec. 17, 1968	Summary of proposed 1970 emission-control systems.	General Motors Corp	7
65. Dec. 17, 1968	1970 light duty vehicle prototype emission control systems.	International Harvester Co	11
66. November 1968	Projected vehicle emission control system for Toyota 1970 model vehicles.	Toyota Motor Co., Ltd	27
67. Dec. 17, 1968	Control of oxides of nitrogen	Chrysler Corp	9
43. Aug. 21, 1968	Valve timing	EVMP	2
44. Sept. 10, 1968	Report on new engine idle stability.	Ford Motor Co., American Motors Corp., General Motors Corp., Toyota Motor Co., Ltd., Chrysler Corp., International Harvester Co., Nissan Motor Co., Ltd.	25
45. Aug. 27, 1968	Emission inspection presentation to AAMVA on vehicle emission inspection.	ESC Chairman	18
46. Sept. 10, 1968	Mass-flow data	Chrysler Corp	12
47. Aug. 22, 1968	Rating idle quality	International Harvester Co	8
48. Aug. 16, 1968	Vehicle evaluation rating system.	Ford Motor Co	2
49. Aug. 9, 1968	Idle quality evaluations	American Motors Corp	2
68. Dec. 17, 1968	Inspection of emission-control systems.	General Motors Corp	3
69. Dec. 17, 1968	Supplementary information on 1969 emission-control systems.	International Harvester Co	7
70. Jan. 7, 1969	Investigations of NO_x control systems.	Ford Motor Co	35
71. Jan. 7, 1969	Oxides of nitrogen from smaller gasoline engine.	Toyota Motor Co., Ltd	63
72. Jan. 7, 1969	Summary of proposed 1970 emission-control systems.	Kaiser Jeep Corp	5
73. December 1968	The effects of the ignition system on exhaust emissions.	Mitsubishi Electric Corp	26
74. Mar. 24, 1969	Engine idle quality test procedure of Toyota.	Toyota Motor Co., Ltd	6
75. Mar. 27, 1969	Reduction of nitrogen oxides in automobile exhaust	Nippon Denso Co., Ltd	11
76. Mar. 11, 1969	Description of ignition advance monitoring systems	International Harvester Co	5
77. June 10, 1969	Engine idle setting procedure	Kaiser Jeep Corp	
78. May 13, 1969	Quality car care schedule	Toyota Motor Co	3
79. May 19, 1969	Performance of a catalytic converter on nonleaded fuel SAE paper No. 690503.	General Motors Corp	10
80. May 22, 1969	Comments by J. H. Jones & E. E. Weaver—car systems research on SAE paper No 690503.	Ford Motor Co	18

EXHAUST EMISSION MEASUREMENT PANEL REPORTS

1. Sept. 8, 1967	A proposal for an interim mass exhaust emission test procedure.	Ford	3
2. Sept. 8, 1967	A proposal for 1970 studies based on mass equivalents.	General Motors	4
3. Sept. 7, 1967	Calculations of exhaust mass emissions.	do	2
4. Sept. 8, 1967	Interim mass emission test procedure (Sept. 21, 1967) EEMP to VCP.	EEMP	8
5. Oct. 25, 1967	Proposal—exhaust emission correlation program for EEMP.	Ford	4
6. Nov. 20, 1967	Curves and tables emissions vs. vehicle weight.	Chrysler	17
7. Nov. 20, 1967	Interim mass standards for 1970.	General Motors	4
8. Nov. 20, 1967	Assumptions for 1970 certification based on mass.	Ford	3
9. Nov. 20, 1967	Curves—F/cycle vs. engine displacement—inertia weight.	American Motors	3
10. Jan. 18, 1968	EEMP notes to ESC on HEW studies published Jan. 4, 1968.	EEMP	18
11. Jan. 31, 1968	EEMP proposed revision of Cal. specifications for assaying line instrument.	EEMP	14
12. Mar. 13, 1968	Computer print-out of best fit equation for Cal. gases.	General Motors	4
13. Mar. 13, 1968	Propane response	do	1
14. Mar. 13, 1968	FIA of propane Cal. gases using olson gravimetric standards.	EEMP	1
15. Mar. 13, 1968	Daimler-Benz response to HEW 1970 standards dated Jan. 4, 1968.	Mercedes-Benz	11
16. Mar. 29, 1968	Considerations in traffic survey and test cycle development.	TSP	3
17. Apr. 17, 1968	Effect of emission control system on reactivity.	Ford	3
18. Apr. 17, 1968	Relative efficiencies of control systems—table.	Chrysler	1
19. May 9, 1968	Report on variable dilution sampling—Clark.	General Motors	8
20. May 9, 1968	Report on NO_x measurement—Lang.	General Motors	13
21. May 9, 1968	Production line test—instrument and test procedure.	American Motors and California ARB staff.	1
22. May 28, 1968	Table—spread between NDIR and FID analyses.	American Motors	2
23. May 28, 1968	Comparison between 7-mode and 10-mode cycle NDIR vs. FID.	International Harvester	5
24. May 28, 1968	Whittaker method of measuring NO—strip chart.	Chrysler	2
25. May 28, 1968	Proposed answer to Cal. Bay Toll Crossings Division.	EEMP	7
26. June 5, 1968	Strip chart of NO measurement using Whittaker method—letter from Whittaker to W. Fagley, Jr.	Chrysler	4
27. July 23, 1968	European consideration of atmospheric pollution problems.	AMA	3
28. July 17, 1968	Comparison of emission reactivities—table 1.	General Motors	1
29. July 17, 1968	Number of hydrocarbons evaluated under controlled conditions.	do	1
30. July 17, 1968	Graphs plus computer summaries—HC reactivity versus conc. by C. G.	do	15
31. July 17, 1968	Comparison—HC conc. by C. G. versus FID.	do	3
64. July 1, 1969	Determination of CO_2 at Wahnsdorf, Germany—published.	Mercedes-Benz	2
65. July 1, 1969	Comparison of 3 dynamometers in Germany.	do	[illegible]
32. July 17, 1968	Correlation—reactivity and gas chromotography.	Ford	1
33. July 17, 1968	SAE paper 680419—FID technique—HC in diesel exhaust.	International Harvester	15
34. July 17, 1968	Correlation between 7-mode and USPHS 10-mode cycles—Clark.	General Motors	9
35. July 17, 1968	Schematic diagram—NO and O_2 instrument console.	do	1
36. July 17, 1968	Relative sensitivity—FID analyzer.	Chrysler	2
37. July 30, 1968	Measurement procedure—NO for California, 1970.	EEMP	16
38. July 30, 1968	Background data for calculating NO_x for California.	Chrysler	3
39. July 30, 1968	Correlation program—NEW-AMA Labs—Westveer.	EEMP	4
40. July 30, 1968	Report on reactivity to ESC from joint ACP and EEMP.	EEMP	6
41. Aug. 5, 1968	Report on measurement procedure for NO California, 1970.	EEMP	15
42. Sept. 11, 1968	Continuous Trace—Rate of exhaust flow, 10-mode cycle.	Chrysler	3
43. Sept. 11, 1968	Mass flow data—Fagley (7- versus 10-mode cycles).	do	14
44. Sept. 11, 1968	Letter—Jansen to Maga—Mass emission measurement technique.	AMA	3
45. Sept. 11, 1968	Table—Fuel measured mass compared with calculated Federal standard mass.	Chrysler	1
46. Sept. 11, 1968	Repeatability of no measurement technique—9 vehicles.	General Motors	6
47. Dec. 3, 1968	Comments to ESC on California law AB 357—Assembly-line test.	EEMP	11
48. Jan. 27, 1969	Report on NOx humidity factor—Maeda.	Nissan	16
49. Jan. 27, 1969	EEMP to ESC report on California ARB assembly line test.	EEMP	6
50. Feb. 5, 1969	European driving cycle—Report by F. Louis.	Renault	
51. Feb. 18, 1969	Exhaust-flow method of mass measurement—Fagley.	Chrysler	19
52. Feb. 18, 1969	Mass emission program—Nick	General Motors	33
53. Mar. 4, 1969	Comments on California proposed assembly line test procedures.	Toyota	5
54. Mar. 18, 1969	Effect of moisture on NO_x emissions.	Ethyl	24
55. Mar. 20, 1969	Effect of fuel composition—on FID/NDIR ratio—Campau.	Ford	11
56. Mar. 26, 1969	Reduction of NO_x manifold reactor—Tanaka et al.	Nippon Denso	12
57. Apr. 11, 1969	Exhaust emission measurement correlation program—Westveer.	EEMP	4
58. Apr. 14, 1969	Supplement—moisture on NO_x-RK factor calculation.	Ethyl	2
59. Apr. 21, 1969	Comments on foreign cycles—Lombardi.	EEMP	3
60. Apr. 30, 1969	HC measurement by FID—improved response—Teague.	ACP/EEMP	3
61. May 29, 1969	Diagrams of sampling and analytical systems—proposed.	EEMP	4
62. June 5, 1969	Effective and economic control of auto emissions—Sarto.	EVMP	7
63. July 1, 1969	Preliminary evaluation of NO_x analyzer—Jackson.	General Motors	3
66. July 1, 1969	Dynamometer effects on emissions using CVS.	Nissan	2
67. July 23, 1969	Foreign cycle evaluation—Lombardi.	EEMP	4

HEAVY VEHICLE PANEL REPORTS

1. Mar. 7, 1969	Evaluative control procedures for heavy trucks.	HVP	4
2. Mar. 26, 1969	Reduction of nitrogen oxides in automobile exhaust.	Nippon Denso	11
3. May 22, 1969	Outline for research program for heavy vehicle emission data.	HVP	2

AD HOC TRAFFIC SURVEY PANEL REPORTS							
1. May 24, 1967	Comparison of Chrysler 50,000 mile and AMA durability schedules.	Chrysler Corp.	4	3. Mar. 27, 1968	Consideration in traffic survey and test cycle development.	General Motors Corp., Chrysler Corp., Ford Motor Co.	3
2. May 24, 1967	Comparison of durability schedules.	General Motors Corp.	1	4. Sept. 30, 1968	Background of vehicle exhaust gas test procedures in Japan.	Toyota Motor Co. Ltd.	4
				5. Feb. 5, 1969	European driving cycle	Renault	4
ATMOSPHERIC CHEMISTRY PANEL REPORTS							
1. Mar. 4, 1969	Nitrogen oxides in the atmosphere.	ACP	34	2. July 8, 1969	HEW meeting—Cincinnati reactivity criteria.	ACP	6
VEHICLE EMISSION SURVEILLANCE PANEL REPORTS							
1. Oct. 11, 1967	1967 surveillance program on high mileage exhaust emission equipped vehicles.	Ford Motor Co.	23	2. Mar. 27, 1969	Hot versus cold start surveillance testing.	VESP	9
				3. June 9, 1969	Surveillance data summary report to ESC.	VESP	5
FUEL SYSTEMS EMISSION PANEL REPORTS							
1. Oct. 18, 1967	Letter from AMA to NAPCA outlining available data on evaporative control systems.	AMA-VCP, General Motors	10	16. Mar. 24, 1969	Fuel temperature versus vapor temperature.	Kaiser Jeep	2
2. Oct. 25, 1967	Charcoal canister evaporative emissions control system.	General Motors	9	17. Mar. 24, 1969	Comparison of evaporator test procedures.	Ford	9
3. Oct. 25, 1967	Crankcase storage of evaporative emissions.	do	10	18. Mar. 24, 1969	GM test on effect of heating fuel on evaporator emission.	General Motors	2
4. Dec. 1, 1967	Carbon air cleaner evaporative control.	Ford	10	19. Mar. 25, 1969	Deterioration factor of evaporator emission data.	Toyota	7
5. Dec. 1, 1967	Crankcase storage system—Evaporative control.	do	15	20. Mar. 8, 1969	Comparative shed tests	General Motors (charts)	2
6. Dec. 1, 1967	History of evaporative control studies.	do	13	21. Apr. 18, 1969	Report of evaporator testing	Ford, General Motors, Chrysler, American Motors.	7
7. January 1968	Chrysler closed-vent system	Chrysler	8	22. Apr. 23, 1969	Effect of heating method of fuel tank on evaporator emission.	Nissan	4
8. January 1968	AMC evaporative systems	American Motors	6	23. Apr. 23, 1969	Heating pad installation v. fuel tank emissions.	Kaiser Jeep	3
9. Apr. 24, 1968	Results of lab cross program	FSEP (charts)	5	24. Apr. 28, 1969	Review of shed testing data	Ford, American Motors, Chrysler.	6
10. June 14, 1968	Evaporative loss data	FSEP (charts)	7	25. May 5, 1969	Fuel tank heating methods	FSEP	23
11. July 1968	Absorption of HC vapor by charcoal.	Toyota	15	26. May 6, 1969	Laboratory cross check program.	FSEP	11
12. Aug. 23, 1968	Proposed test procedure for determination of liquid fuel losses from vehicle fuel tank.	FSEP	9	27. May 18, 1969	Shed test on control equipped cars.	General Motors	2
13. Sept. 27, 1968	do		8	28. July 1, 1969	Comparison of evaporation test sequences.	FSEP	6
14. Oct. 15, 1968	Joint (FSEP and HVP) report to ESC on test procedure for heavy truck losses.	FSEP	4	29. July 18, 1969	Proposals for engineering acceptance of evaporation control systems.	FSEP	3
15. Mar. 18, 1969	Preliminary progress report of Shed test procedure.	FSEP	3				

SEPTEMBER 15, 1969.

HON. RICHARD W. MCLAREN,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.

DEAR MR. MCLAREN: I have your letter of September 11, 1969 indicating that the Antitrust Division preferred to propose a consent decree with the four major auto manufacturers and the Automobile Manufacturers Association (AMA) instead of proceeding to full trial. The Department's press release, but not the full text of the consent decree proposal, was enclosed. There is a significant difference between the two—the press release was an optimistic gloss that could and did mislead the press into reporting that the Division had obtained a victory for the people in achieving a stipulation from the domestic auto industry that they will obey the antitrust laws in the future in return for the Division's forgetting the past and keeping past records about the industry's conspiracy confidential.

What the domestic auto companies conspired over a period of at least 16 years to do—restrain the development and marketing of auto exhaust control systems—is a crime under the Sherman Act. Collusive, anti-competitive agreements which result in seriously jeopardizing the capacity of citizens to breathe air without carcinogenic and other lethal and violent pollutants would, under the most normal of expectations, be prosecuted by the Division as a crime. That course of enforcement was indeed initiated by your predecessors, Donald Turner and Edward Zimmerman in mid-1966. Grand Jury proceedings for 18 months resulted in the Division's trial attorney's request to Mr. Turner for permission to ask the Grand Jury to return an indictment. The Grand Jury was even willing to return an indictment regardless of what instructions were forwarded from Washington—so convinced was it of the criminality of the behavior detailed during these 18 months. Mr. Turner dropped the criminal case, without any public explanation, and had the Grand Jury discharged. One year later, in January 1969, a civil complaint was filed. Nine months after that, the civil complaint was in effect dropped in favor of a porous, proposed consent decree, stripped to the minimum of what the legitimate impact of the law should have been.

Is this where five years of Antitrust Division involvement and expenditure of numerous man-years is to end? I should like to detail some reasons why the answer to this question must be "no."

Over the years, a large proportion of the civil actions brought by the Antitrust Division have been terminated by consent decrees. The criteria employed have rarely been made clear. However, it is known that scarce manpower and judicial delay are important factors. Year after year, those who have lead and supervised the Antitrust Division have undermined or weakened antitrust enforcement by simply referring to those two conditions. At the same time, there has been no sustained effort to obtain more funds for the Division or to develop procedures (with the exception of the CID development earlier in this decade) which will accelerate any judicial recourse or at least improve the bargaining power of the government that more expeditious trial reflects.

It seems to be relevant to suggest a number of questions which should be asked in the automobile smog case before a consent judgment is considered or approved:

1. Are there important and unresolved issues of law which merit judicial determination?

2. Are there important rights of public and private institutions and citizens which can be eroded or erased by a consent judgment as proposed?

3. Does the seriousness of the antitrust violation in this case argue for the greater deterrent and public educational purposes achieved by a civil trial or the resumption of the Division's criminal action?

4. Does the proposed consent decree achieve the announced objective of Attorney General John M. Mitchell who described it last week as representing "strong federal action to encourage widespread competitive research and marketing of more effective auto anti-pollution devices?"

Matters of fact and law point to clearly affirmative responses to questions (1) (2) & (3) and a negative response to question (4).

The present case offers an excellent opportunity for the Antitrust Division to establish judicially two important principles which would have enormous replicative value over the behavior of modern industry striving to restrain the rate of innovation to the detriment of competition and human welfare. As you know, the Department's complaint of January 10, 1969 requested that the defendants be restrained from making joint responses to government regulatory agencies concerned with air pollution control. For years the Automobile Manufacturers Association has been the instrument of precise collusion by the auto companies to develop common positions on questions of pollution and safety and to head off or suppress any potential diversity of response. Even after the Department commenced its investigation into this conspiracy, the AMA was developing and using a stock speech on air pollution—a speech which was given, for example, both by Dr. Fred W. Bowditch, Chief Engineer for General Motors and Mr. Donald A. Jensen, Ford's executive engineer in charge of vehicle emissions. Collusive trade association activity continues to be a prime anti-competitive practice in this country. Such activity is long overdue for authoritative judicial resolution and the emergence of judge-made law that would give pause to other trade associations which exert similar, if not greate control, over their members and enforce the dominant firm(s)' policy over smaller industry firms. The proposed consent decree loses this opportunity.

The second principle requiring case law development relates to "product fixing." The automobile industry has restrained competition among manufacturers in the area of product quality. The consumer movement can produce numerous instances of such lowest common denominator quality throughout an industry. The auto companies' activities in the motor vehicle emissions field are in this sense symptomatic of a disease which affects wide areas of the economy. By not moving against this sort of collusion, the Division has relinquished an opportunity to formulate a crucial, new precedent that is rooted in old antitrust doctrine. The instant case is ripe for this determination and the Division has the benefit of five years of investigation as well.

Because the antitrust laws recognize the rights of persons or groups to initiate private antitrust actions, the Division is in a trusteeship position thereto. Any decision made must take into some account how the final resolution will affect the rights of private and public parties under the antitrust laws. In this case, municipal and other public bodies have displayed a strong interest in antitrust enforcement vs. the auto conspiracy as well as recovering in separate actions damages which they have incurred as a result of auto pollution. The possibility that local governmental bodies, business firms and individual citizens may wish to adjudicate their rights is severely limited by the proposed consent decree. As you know, Section 5 of the Clayton Act provides that consent judgments, unlike other final judgments in cases brought by the United States, shall not be considered prima facie evidence against the defendant in a treble-damage suit. The practical effect of this provision is that potential treble-damage plaintiffs would have to duplicate the investigative process which took the Department several years and several hundreds of thousands of dollars even with its extraordinary discovery powers. Los Angeles County already has filed a one hundred million dollar suit against the automobile manufacturers, seeking to recoup some of the loss to the County resulting from this corporate conspiracy to hold back on pollution controls. Further, the California Attorney General, acting on behalf of the State, has been denied access to the Justice Department's information about the auto pollution case. The evidence of the conspiracy exists in the Justice Department's possession and the Department seems determined not to have any of it surface in a public trial. In a critical treatment of the Department's consent decree program ten years ago, the House Antitrust Subcommittee described precisely this effect:

"The almost inevitable consequence of the acceptance of a consent decree by the Department of Justice . . . is to deprive suitors, who have been injured by the unlawful conduct, of their statutory remedies under the antitrust laws."

The Department's complaint charges the

auto industry with collusive behavior having devastating consequences for the peoples' health in this country. At least 50% of the nation's air pollution comes from the motor vehicles' internal combustion engines. Medical and other epidemiological studies have linked these pollutants with diseases ranging from cancer to emphysema. Property damage from corrosive pollutants is estimated at $13 billion annually by federal officials. Half of this amount is a very substantial cost inflicted on this nation by the auto industry's intransigent refusal to innovate over the past generation. Can anyone deny the need and benefit for the public to learn about the nature and depth of this colossal corporate crime? The citizens of this country, who are the customers of this industry, have a right to know the extent to which the auto companies are deliberately responsible for the enormous health, economic and aesthetic damages caused by the internal combustion engine. One of the purposes of a public trial is deterrence; the Division has chosen to lose a grand opportunity to bring these companies and their harmful practices into the public arena of a courtroom. This aspect of the Division's case alone would have a greater deterrent effect than the tightest of consent judgments. Since it is not any longer the practice of antitrust enforcement to pierce the corporate veil and hold the culpable officials responsible, a public trial would at the least have shown that such corporate officials are holding far greater power over citizens in this country than they can exercise responsibly or even legally.

What of the proposed consent decree? The proposal can hardly be stronger than the complaint which itself is the result of a process of enforcement erosion which began with an intended criminal prosecution and ended with a meek request for injunctive relief. The complaint did not even contain a request for the imposition of civil damages pursuant to the antitrust laws. (Like the drug cases, the federal government has incurred damage to its property and personnel from this conspiracy.) The process of secret, ex parte type negotiations with representatives of corporate defendants, in particular Lloyd N. Cutler, counsel for the AMA, discourages confidence in antitrust enforcement and facilitates sloppy or political decision-making. When decisions can be made without prior citizen access or without criteria publicly displayed on which such decisions are rendered or without adequate explanation, abuses, distortions and laceration of the public interest can occur with greater frequency than would be the case otherwise.

The following weaknesses can be cited in the proposed consent decree:

1. There is no provision requiring the keeping of records by the defendants. For example, the Department has no assurance that minutes or transcripts will be kept of AMA committee meetings on pollution matters or that there will be records kept of informal discussions between executives and representatives of various auto companies. A section of the proposed decree requires written reports concerning any matters contained in the decree, but only "upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division. . ." If the Department is serious about its surveillance responsibilities over the consent judgment, why doesn't the proposed decree place an affirmative responsibility on the companies to make periodic reports concerning the matters covered by the decree? Why, for instance, are not the companies required to report the terms of all licenses granted and purchased? Why are there no reports on the status of research relating to motor vehicle emissions?

The task of surveillance, effective surveillance, is so formidable that it raises a question whether the Division is even less equipped to monitor compliance with the decree than it is to engage in complicated litigation which would permit other parties to have the information on which to base their vigilance against antitrust violations by the auto industry. Certainly the terms of the decree proposed last week do not facilitate surveillance. Neither does the fact that the Divisions Judgement Section is composed of only 12 professional personnel with no more than half that number having the burden of trying to see that the many hundreds of consent decrees are being complied with. Judged on any basis—cost benefit, importance of the case etc., the resources which the Division can devote to litigation are greater than those devoted to compliance

2. Section VI(A)(3) of the proposed decree requires defendant AMA to make available for copying or for examination by any person the technical reports in its possession or control prepared or exchanged by defendants pursuant to said cross-license within two years prior to the entry of this Final Judgment. Why only two years when the Department alleges the conspiracy to have begun at least in 1953 and when the Department alleges specific conspiracies to delay installations in 1961, 1962–3 and 1964. There is also the onerous additional proviso that any person who requests such information agrees to offer each signatory party to the AMA cross-licensing agreement of July 1, 1955, as amended, and any subsidiary thereof, nonexclusive license rights with respect to any patents or patent applications based upon information obtained from AMA or its members who are defendants in this case. This proviso can vitiate the purpose of the aforementioned section VI(A)(3) since it requires firms or individuals to become entangled in a serious risk of harassing litigation where the richest firm wins. What small firm is going to take the risk? Consequently, the purpose of this section to encourage proliferation of information collusively obtained or possessed so as to promote competition fails.

3. Two provisions which the Department emphasized in its September 11, 1969 press release were the restraint against exchanging confidential information (IV A 2 a) and the restraint against filing joint statements (IV A 2 g) to regulatory agencies on matters pertaining to pollution or automotive safety are schuled to expire quietly in ten years under Section IX of the proposed decree unless the Department applies for a continuation after nine years. Why, if these two practices are considered anticompetitive—and indeed they go to the base of the conspiracy—will they be any less anticompetitive in ten years?

In the case of the proposed restraint on joint statements, the qualifications make the restraint mere paper in impact. These exemptions to the ban on joint statements via the AMA are: statements relating to (1) the authority of the agency involved; (2) the draftsmanship of or the scientific need for standards or regulations; (3) test procedures or test data relevant to standards or regulations; or (4) the general engineering requirements of standards or regulations based upon publicly available information. In addition, the proposed decree (IV (A)(1)(g)) permits joint filing on the critical point of ability to comply with a particular standard or regulation if there is a written agency authorization for such a joint statement. What kind of naivete or incompetence does this draftsmanship reveal on the part of the public's representatives in your Division? Mr. Cutler has probably drafted a form request to the various agencies on behalf of the AMA to take advantage of just that blatant loophole, and will approach the agencies at the appropriate time.

4. There is no provision for requesting the Court to release the Grand Jury transcript and other documents in order that third parties have the opportunity to adjudicate their rights. Even in the case of U.S. vs. Harper and Row et al (the book conspiracy case), the Division had a information release provision. There is also no ban on the destruction of corporate or AMA documents re the conspiracy since 1953.

In the light of the fore-going and other arguments made to your staff by concerned public representatives, I urge you to withdraw your consent to this proposed decree, as provided for on page 1 of the stipulation, and reconsider the necessity to initiate criminal action against the defendants or at the least a civil action with broader relief than requested by the January 10, 1969 complaint. In the most unsatisfactory alternative, the proposed decree should be amended to take into account and eliminate the afore-mentioned deficiencies and to incorporate a strong information disclosure provision so that third parties, such as Los Angeles County, can do the job that your Division failed to do. Better a trial sought and lost than a consent decree gained in the form of a legal fiction and propped up by a compliance capability that is beyond pathos.

During your reconsideration, if you so undertake one, may I suggest that you take note of the following commentary on the infirmity of the consent decree and its continuing ludicrous-tragic infrastructure:

"When a corporate official knows that the probabilities are that, if his activities are detected, antitrust attack on a proposed economic program can be concluded amicably, with no notoriety, and with little danger of resultant private antitrust actions, there is virtually nothing to lose and everything to gain from undertaking a questionable program. Large scale use of the consent decree to conclude antitrust suits instituted by the United States, therefore, amounts to an invitation to corporate officers to undertake activities which may violate the law." (1959 House Antitrust Subcommittee Report)

In conclusion, I should like to ask the following questions:

1. What allocation of compliance manpower do you envision necessary for even the minimal provisions of the proposed consent decree? What compliance program has been developed?

2. The reason given, among others, for resorting to the consent decree resolution was the protracted delay in the courts and the manpower drain. How do you envision responding to this state of affairs—by relying more heavily on consent decrees as your case load builds up or by constructing the case for doubling or quadrupling your staff and resources if the remnants of the competitive enterprise system are to be preserved and taking that case to the Congress and to the public? As you realize every day, the Antitrust Divisions budget, in real terms, has not increased over the past six years—once pay increases etc. are accounted. This year, the entire budget for the Antitrust Division permits a manpower base of about 170 practicing attorneys (about the size of the largest private law firms) and in dollar terms is equivalent to approximately 3 hours gross revenue (on a 24 hour basis year around) of General Motors. Is it not time to unveil the farce of antitrust enforcement and proceed to substance?

3. Do you intend to set forth your philosophy on consent decree-uses and procedures in the near future? Do you believe that the public shold have access, in terms of input and commentary on Departmental proposals, *before* the consent decree agreement is announced. A few years ago, the Department adopted the 30 day rule to give interested parties time to file their objections; but this is late for many interested parties and by this time the Department has made up its mind. What is necessary is to give the public at least a partial access to persuade the Department instead of the present secret negotiations between the Department and the defendants.

4. Your predecessor, Donald Turner, looked dimly on private antitrust efforts as unduly disruptive of the Department's public policy on antitrust. Do you share this reservation? Do you think the proposed consent decree is adequate to permit third parties to adjudicate their rights?

5. Do you not concede the likelihood of anticompetitive effects flowing from grant-back provisions (such as in IVB2b) which run counter to the announced thrust of the consent decree proposal?

By including the comments of Dr. Lee A. DuBridge, President Nixon's science advisor, and the approval of the Department of Health, Education and Welfare, in your September 11, 1969 press release, you recognize the broad policy significance of this auto smog antitrust case and the proposed consent decree. Others in Congress and in local governments agree. There is every indication that this is going to be the most widely contested decree in antitrust history. In order to have the opportunity for timely intervention, within the 30 day limit, I would appreciate receiving your responses on the aforenoted requests for more stringent legal action against the auto industry and, alternatively, for stricter relief in the consent decree.

Thank you for your consideration of the above suggestions.

Sincerely yours,

RALPH NADER.

September 19, 1969

LOS ANGELES COUNTY INTERVENES IN SMOG CASE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 19, 1969

Mr. BROWN of California. Mr. Speaker, last week the Los Angeles County Board of Supervisors acted to intervene as a plaintiff in the antitrust case pending against automobile manufacturers accused of conspiracy to limit development of effective air pollution controls.

The complaint and the notice of motion include some vital analysis relevant to the issue of allowing a consent decree in this case, and I now place them in the RECORD at this point, along with a relevant motion adopted this week by the board of supervisors:

[U.S. District Court, Central District of California]

UNITED STATES OF AMERICA, PLAINTIFF, *v.* AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.; GENERAL MOTORS CORP.; FORD MOTOR CO.; CHRYSLER CORP.; AND AMERICAN MOTORS CORP., DEFENDANTS

(Civil No. 69–75–JWC; filed, 1/10/69; complaint in intervention of county of Los Angeles (State of California) and Air Pollution Control District of the County of Los Angeles (State of California)

COMPLAINT

Come now the County of Los Angeles, of the State of California, and the Air Pollution Control District of the County of Los Angeles (State of California), and for cause of action against the Defendants Automobile Manufacturers Association, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation allege as follows:

I

That Plaintiff in Intervention County of Los Angeles (County) is a public corporation and a political subdivision of the State of California.

II

That Plaintiff in Intervention Air Pollution Control District of the County of Los Angeles (APCD) is a public agency formed and existing pursuant to the laws of the State of California.

III

That the Air Pollution Control District (APCD) is charged by the laws of the State of California with the duty of protecting the health and welfare of the people of Los Angeles County from the effects of air contamination; that since its creation in 1947 the APCD has expended approximately sixty millions of dollars ($60,000,000.00) of public funds in attempting to reduce air pollution, in Los Angeles County; that the source of said funds is the Treasury of the County of Los Angeles.

IV

That at all times alleged in the Complaint the County of Los Angeles was charged by law with the duty of providing medical services and other health services to more than one-half million people who are and were residents of the County and are and were unable to pay for such services.

V

That each year since 1952 the County of Los Angeles has purchased more than 500 motor vehicles from the named Defendants; that as a proximate result of the conspiracy alleged in the Complaint the motor vehicles purchased by them were not equipped with efficient air-pollution control devices, and that between 1952 and 1961 said vehicles were not equipped with any such devices whatsoever.

VI

That as a proximate result of the offenses alleged in the Complaint the Defendants have caused to be emitted into the air of Los Angeles County air contaminants in the form of hydrocarbons, carbon monoxide, oxides of nitrogen, particulate matter, and other air contaminants; that the amount of such emissions varies and has varied from day to day and that the average amount of such air contaminants emitted in Los Angeles County presently exceeds 12,000 tons per day.

VI

That as a proximate result of said emissions of air contamination the County of Los Angeles has been forced to expend many millions of dollars in providing medical care and other health services to residents of Los Angeles County; that said emissions of air contamination have caused respiratory diseases and aggravate and have aggravated respiratory diseases of residents of Los Angeles County; and that many thousands of persons suffering from respiratory diseases were treated by County hospitals and other facilities, all at the expense of the County, during each year since 1952.

VII

That the interests of these Plaintiffs will not be adequately protected by the present Parties to the proceeding.

Wherefore, the Plaintiffs in Intervention pray:

1. That the Court permit the Plaintiffs in Intervention to become parties to this action on the side of the Plaintiff and that they be permitted to take part in all proceedings in this action.

2. That the Court adjudge and decree that the Defendants have engaged in a combination and conspiracy, in unreasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act.

3. That each of the Defendants named in this Complaint, its successors, assignees and transferees, and the respective officers, directors, agents, and employees thereof, and all persons acting or claiming to act on behalf thereof:

(a) be enjoined from continuing, maintaining, or renewing, directly or indirectly, the combination or conspiracy hereinbefore alleged, or from engaging in any other practice, plan, program, or device having a similar effect;

(b) be enjoined from entering into any agreements, arrangements, understandings, plan or program with any other person, partnership, or corporation, directly or indirectly:

(1) to delay installation of air pollution control equipment or otherwise restrain individual decisions as to installation dates;

(2) to restrict individual publicity of research and development relating to air pollution control technology;

(3) to require joint assessment of the value of patents or patent rights relating to air pollution control equipment;

(4) to require that acquisition of patent rights relating to air pollution technology be conditioned upon availability of such rights to others upon a most-favored-purchaser basis; or

(5) to respond jointly to requests by government regulatory agencies for information or proposals concerning air pollution control technology unless such agency requests a joint response in a particular case; and

(c) be required to issue to any applicant interested in developing motor vehicle air pollution technology unrestricted, royalty-free licenses and production know-how under all United States patents owned, controlled, or applied for to which the cross-licensing agreement dated July 1, 1955, as amended, has been applicable, and to make available to any such applicant all other know-how related to air pollution control technology which has been exchanged with any other defendant.

4. That the Plaintiff have such other, further, and different relief as the nature of the case may require and the Court may deem just and proper in the premises, including cancellation of the cross-licensing agreement dated July 1, 1955, as amended, and an injunction ensuring that all future joint arrangements relating to air pollution control technology be appropriately limited as to subject matter of joint effort and numbers of participants so as to maintain competition in the development of air pollution technology.

5. That these Plaintiffs be awarded damages against the Defendants, and each of them, in the sum of One Hundred Million Dollars ($100,000,000.00).

6. That the Plaintiffs in Intervention recover their costs of suit herein and receive such other and additional relief as is just in the premises.

Dated: September 5, 1969.

JOHN D. MAHARG,
County Counsel.

BY DAVID D. MIX,
Assistant County Counsel,
Attorneys for Plaintiffs in Intervention.

CERTIFICATE OF SERVICE BY MAIL

I hereby certify; under penalty of perjury, that I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 648 Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 5th day of September, 1969, I served the attached Notice of Motion and Motion to Intervene with accompanying documents upon attorneys of record for United States of America; Automobile Manufacturers Association, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box in Los Angeles, California, addressed as follows:

Raymond W. Phillips, Dept. of Justice, Antitrust Division, 1307 U.S. Court House, 312 North Spring St., Los Angeles, California 90012. [Attorneys for Plaintiff, United States of America].

Gibson, Dunn & Crutcher, Julian O. von Kalinowski, Paul G. Bower, Robert E. Cooper, 634 South Spring Street, Los Angeles, California 90014. [Attorneys for Defendant, Automobile Manufacturers Association, Inc..].

Overton, Lyman & Prince, Carl J. Schuck, 550 S. Flower St., Suite 607, Los Angeles, Calif. 90017 [Attorneys for Defendant, Ford Motor Company].

Lawler, Felix & Hall, Marcus Mattson, Robert Henigson, 605 W. Olympic Blvd, Suite 80, Los Angeles, Calif. 90015 [Attorneys for Defendant, General Motors Corporation].

McCutchen, Black, Verleger & Shea, Philip K. Verleger, William G. Shea, 615 S. Flower St., Suite 1111, Los Angeles, Calif. 90017 [Attorneys for Defendant, Chrysler Corporation].

O'Melveny & Myers, Allyn O. Kreps, Girard E. Boudreau, 611 West 6th Street, Los Angeles, Calif. 90017 [Attorneys for Defendant, American Motors Corporation].

and that the persons on whom said service was made have their offices at a place where there is a delivery service by United States mail, and that there is a regular communication by mail between the place of mailing and the place so addressed.

Dated: September 5, 1969.

BONITA M. AUER.

[U.S. District Court, Central District of California]

UNITED STATES OF AMERICA, PLAINTIFF, *v.* AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.; GENERAL MOTORS CORP.; FORD MOTOR CO.; CHRYSLER CORP.; AND AMERICAN MOTORS CORP., DEFENDANTS

(Civil No. 69-75-JWC, notice of motion and motion to intervene as plaintiffs)

To the following:

Raymond W. Philipps, Department of Justice, Antitrust Division, 1307 U.S. Court House, 312 North Spring Street, Los Angeles, California 90012 [Respectively, attorney for Plaintiff, United States of America]

Gibson, Dunn & Crutcher, Julian O. von Kalinowski, Paul G. Bower, Robert E. Cooper, 634 South Spring Street, Los Angeles, California 90014 [Respectively, attorneys for Defendant, Automobile Manufacturers Association, Inc.].

Overton, Lyman & Prince, Carl J. Schuck, 550 South Flower Street, Suite 607, Los Angeles, California 90017 [Respectively, attorneys for Defendant, Ford Motor Company].

Lawler, Felix & Hall, Marcus Mattson, Robert Henigson, 605 West Olympic Boulevard, Suite 800 Los Angeles, California 90015 [Respectively, attorneys for Defendant, General Motors Corporation].

McCutchen, Black, Verleger & Shea, Philip K. Verleger, William G. Shea, 615 South Flower Street, Suite 1111, Los Angeles, California 90017 [Respectively, attorneys for Defendant, Chrysler Corporation].

O'Melvey & Myers, Allyn O. Kreps, Girard E. Boudreau, 611 West 6th Street, Los Angeles, California 90017 [Respectively, attorneys for Defendant, American Motors Corporation].

Please be advised that on October 6, 1969, at the hour of 10:00 A.M., or as soon thereafter as counsel may be heard, the undersigned, County of Los Angeles (State of California) and the Air Pollution Control District of the County of Los Angeles (State of California) will make formal motion in Courtroom 10, United States Court House, 312 North Spring Street, Los Angeles, California, to intervene in the above-referenced action.

The County of Los Angeles and the Air Pollution Control District of the County of Los Angeles move pursuant to Rule 24(a)(2) and Rule 24(b)(2) of the Federal Rules of Civil Procedure, for leave to intervene as plaintiffs in the above-entitled action to assert the claims set forth in the proposed Complaint, a copy of which is attached, on the following grounds:

1. The claims of the County of Los Angeles and the Air Pollution Control District of the County of Los Angeles contained in the proposed Complaint for Intervention and the claims of the United States of America in the main action have substantial questions of law and fact in common. The common questions of law and fact are whether the Defendants engaged in a combination or conspiracy to prevent the development and distribution of motor vehicle air pollution control equipment. The interests of the Intervenors in these common questions of law and fact, however are different and distinct from the interests of the Plaintiff, the United States of America. The Plaintiff is concerned about the direct and immediate results of the common questions of law and fact on free competition and interstate commerce. Intervenors' interests, on the other hand, are the direct and immediate result of the common questions of law and fact on the health and economic vitality of the residents of the County of Los Angeles. The Plaintiff is not adequately representing the interests of the Intervenors.

The Intervenors must become a party to the main action so that when the common questions of law and fact are resolved, the interests of the Intervenors will be protected by:

(a) Enjoining the combination and conspiracy so that pollution-free motor vehicles are developed to avoid the diversion of public funds for the purchase of ineffective motor vehicle air pollution control equipment by the Intervenors as public end users.

(b) Enjoining the combination and conspiracy so that effective motor vehicle air pollution control equipment may be developed at a lesser price and thereby avoid the further diversion of public funds for only partially effective motor vehicle air pollution control equipment.

(c) Enjoining the combination and conspiracy which causes ineffective motor vehicle air pollution control equipment to be marketed and thereby causes substantial diversion of public funds for medical services made necessary by the damaging consequences of breathing polluted air by residents of Los Angeles County.

2. Unless these Plaintiffs are permitted to intervene the United States and the Defendants may settle this matter by stipulation or otherwise. In such an event, the facts of the conspiracy will be forever lost to these moving parties and to all persons who have been damaged by said conspiracy.

Because of the above-enumerated interests in the common questions of law and fact (preventing the development and distribution of effective motor vehicle air pollution control equipment), the interests of Plaintiffs in Intervention are separate and distinct from the interests of the United States of America, and said Plaintiff cannot alone adequately represent the interests of the Intervenors.

3. To grant the Motion to Intervene will not unduly delay or prejudice the rights of the original parties. The Plaintiff can continue to focus on the competition and interstate commerce implications of the combination and conspiracy. The Defendants can continue to focus on the common questions of law and fact—a combination and conspiracy to prevent the development and distribution of motor vehicle air pollution control equipment. No delay will be caused by

intervention. Only prejudice will result if the Motion to Intervene is denied.

JOHN D. MAHARG,
County Counsel.
By DAVID D. MIX,
Assistant County Counsel.
Attorneys for the County of Los Angeles and Air Pollution Control District, County of Los Angeles.

[U.S. District Court, Central District of California]

UNITED STATES OF AMERICA, PLAINTIFF *v.* AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.; GENERAL MOTORS CORP.; FORD MOTOR CO.; CHRYSLER CORP.; AND AMERICAN MOTORS CORP., DEFENDANTS

(Civil No. 69-75 JWC memorandum in support of complaint in intervention of County of Los Angeles and air pollution control district)

I

Rule 24, Federal Rules of Civil Procedure, is to be broadly construed.

Rule 24(a)(2) of the Federal Rules of Civil Procedure provides for intervention of rights as follows:

"Upon timely application anyone shall be permitted to intervene in an action . . . (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

Rule 24 was amended to its present form in 1966. According to the United States Supreme Court, the purpose of the revision was intended to inject elasticity into the rule and to eliminate the restrictive approach of the older, more rigid cases interpreting the rule. *Cascade Nat. Gas* v. *El Paso Nat. Gas*, 386 U.S. 129. Recent cases have applied a very broad interpretation to Rule 24(a)(2). *Cascade Nat. Gas, supra*, at pages 135-6; *Hopsen* v. *Hanson*, 44 F.R.D. 18 (D.D.C. 1968); *Nuesse* v. *Camp*, 385 F. 2d 694 (DC CIR. 1967).

An absolute right exists, as in this case, when the Plaintiff in Intervention claims an interest relating to the property or transaction which is not adequately represented by existing parties. A reading of Plaintiff in Intervention's complaint reveals that the Plaintiff shares an identical interest with the United States in the transaction which is the subject of the lawsuit. *Credits Commutation Co.* v. *U.S.*, 177 U.S. 311, 315-316; *Minot* v. *Mastin* (C.A.A. 8th 1899) 95 F. 734, 739. In view of the identity of interest it is essential that the Plaintiff be entitled to intervene in order to protect such interest.

In addition to intervention as of right, Plaintiff in Intervention is entitled to permissively intervene pursuant to Federal Rule 24(b) which provides in part as follows:

"Upon timely application anyone may be permitted to intervene in an action: . . . (2) when an applicant's claim or defense in the main action is a question of law or fact in common."

There is no question Plaintiff in Intervention has several questions of law and fact in common with the United States relative to the pending action. *Brinkerhoff* v. *Holland Trust Co.* (CCSDNY) 159 F. 911; *United States v. Utica, Chen. & Susquehanna Valley Ry. Co.*, 48 F. Supp. 903; *Central Louisiana Elec. Co.* v. *Rural Electrification Administration* (W.D.La. 1964) 236 F. Supp. 271.

II

United States Code, title 15, section 5, vests the court with authority to join parties to a pending action.

United States Code, Title 15, Sec. 5, thereof provides as follows:

"Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof."

Plaintiff in Intervention alleges an interest in the vast assemblage of proposed evidence which the United States will use in its case against the parties defendant but which the United States refuses to divulge to the Plaintiff in Intervention. Pursuant to the authority vested by Title 15, Section 5, the court may bring in additional parties to any suit brought by the United States. As a practical matter, Plaintiff alleges that pursuant to this section the Court should exercise its authority to dispose of all claims arising out of the transaction against the parties defendant in one litigation. *State of Georgia* v. *Pennsylvania Ry. Co.*, 655 Ct. 716.

Respectfully submitted.

JOHN D. MAHARG,
County Counsel.
By DAVID D. MIX,
Assistant County Counsel.

CERTIFICATE OF SERVICE BY MAIL

I hereby certify, under penalty of perjury, that I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 648 Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 5th day of September, 1969, I served the attached Notice of Motion and Motion to Intervene with accompanying documents upon attorneys of record for United States of America; Automobile Manufacturers Association, Inc.; General Motors Corporation; Ford Motor Company; Chrysler Corporation; and American Motors Corporation, by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box in Los Angeles, California, addressed as follows:

Raymond W. Philipps, Dept. of Justice, Antitrust Division, 1907 U.S. Court House, 312 North Spring St., Los Angeles, California 90012 [Attorneys for Plaintiff, United States of America].

Gibson, Dunn & Crutcher, Julian O. von Kalinowski, Paul G. Bower, Robert E. Cooper, 634 South Spring Street, Los Angeles, California 90014 [Attorneys for Defendant, Automobile Manufacturers Association, Inc.].

Overton, Lyman & Prince, Carl J. Schuck, 550 S. Flower St., Suite 607, Los Angeles, Calif. 90017 [Attorneys for Defendant, Ford Motor Company].

Lawler, Felix & Hall, Marcus Mattson, Robert Henington, 605 W. Olympic Blvd., Suite 800, Los Angeles, Calif. 90015 [Attorneys for Defendant, General Motors Corporation].

McCutchen, Black, Verleger & Shea, Philip K. Verleger, William G. Shea, 615 S. Flower St., Suite 1111, Los Angeles, Calif. 90017 [Attorneys for Defendant, Chrysler Corporation].

O'Melveny & Myers, Allyn O. Krepe, Girard E. Boudreau, 611 West 6th Street, Los Angeles, Calif. 90017 [Attorneys for Defendant, American Motors Corporation].

and that the persons on whom said service was made have their offices at a place where there is a delivery service by United States mail, and that there is a regular communication by mail between the place of mailing and the place so addressed.

Dated: September 5, 1969.

BONITA M. AUER.

RESOLUTION OF BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES

On motion of Supervisor Hahn, unanimously carried (Supervisor Debs being temporarily absent), it is ordered that the following resolution be and it is hereby adopted:

"Whereas, citizens of smog-infested areas throughout the United States were shocked when United States Assistant Attorney General Richard W. McClaren announced September 11, 1969 the Department of Justice wants to settle its suit based on secret testimony before a Federal Grand Jury that the automobile manufacturers violated the Sherman Antitrust Act by conspiring to restrain and delay the development and installation of anti-smog devices; and

"Whereas, the County of Los Angeles petitioned the Federal court, requesting to intervene in the suit against the automobile manufacturers and asking $100,000,000 damages for injuries to the public health and for the cost of the Air Pollution Control District; and

"Whereas, equal justice under the law means that every person as well as the largest corporations shall have the law equally applied, and by having this far-reaching case settled out of court, the General Motors Corporation, Chrysler Corporation, Ford Motor Company and the American Motors Corporation receive favored treatment; and

"Whereas, the public interest would be best served by having an open trial rather than a consent judgment and thereby achieve permanent and satisfactory relief rather than no relief which could follow a consent judgment:

"Now, therefore, be it resolved that the Board of Supervisors of the County of Los Angeles hereby respectfully requests President Richard M. Nixon to direct the Attorney General to reverse the decision made by his subordinate to settle the case, and to direct that a full and open trial proceed as soon as possible in Federal court;

"Be it further resolved that the Senate and the House of Representatives be requested to hold hearings in their appropriate committees on the full aspects of the Federal Grand Jury findings to learn if the public is being fully protected and if action to settle the suit out of court is in the best interest of the citizens of the United States;

"Be it further resolved that the Executive Officer send copies of this resolution to all members of the Congress.

"Attest:

"JAMES S. MIZE,
"Executive Officer and Clerk of the Board of Supervisors of the County of Los Angeles."

AID FOR DEPENDENT CORPORATIONS

The Fiscal 1986 Corporate Welfare Budget
by
Public Citizen's Congress Watch
February 1985

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Introduction

This study sets out the fiscal 1986 corporate welfare budget: the amount government takes out of the pockets of taxpayers in general and puts into the pockets of business. By eliminating corporate welfare, the deficit could be cut in half in 1986 and the budget could be balanced by 1988-- without cutting social spending, cutting military spending, or raising tax rates.

The study divides corporate welfare into six different categories:

1. Direct cash grants from the federal government to business;

2. Tax expenditures--special exemptions, credits, exclusions and deductions in the tax code that benefit either specific industries or corporations in general;

3. Credit subsidies--loans made by the government at below the market rate or even below the government's own cost of borrowing, and government loan guarantees;

4. Services provided by the government to aid industry at taxpayer expense;

5. Government agencies that promote business or restrict competition;

6. Laws that subsidize business by restricting competition or limiting liability.

The overwhelming majority of corporate welfare is administered in the form of tax expenditures. Tax expenditures are like payments by the federal government, except that they are made through a reduction of taxes rather than by a direct grant. For example, if a corporation buys a machine costing $1,000, the 10 percent investment tax credit allows it to reduce its tax liability by $100. The investment credit thus has exactly the same effect as the government sending the corporation a $100 check. Tax expenditures are much less visible than direct expenditures, since they need not go through the authorization and appropriation process. Rather, they are simply stuck into the Internal Revenue Code, often after little discussion of their merits. Once they are in the Code, they are almost impossible to get out.

Corporate tax expenditures are perhaps the fastest growing segment of the economy: they have grown from $7 billion in 1970 to more than $83 billion in 1986.

The most obvious form of corporate welfare is the direct cash grant from the government to corporations. Direct grants to corporations are not nearly as prevalent as are corporate tax expenditures, but are nevertheless significant: the government will pay corporations $13.759 billion in FY 1986, which is more than the cost of food stamps.

A third type of corporate welfare is government credit, in the form of direct loans and loan guarantees. The government often makes loans to corporations, almost always at interest rates lower than those available from private lenders, and sometimes even below the government's own cost of borrowing. The government also guarantees loans to corporations by private lenders, i.e., agrees to repay the loan if the borrowing corporation does not repay it. Government guarantees enable some corporations who would not be able to borrow at all without the guarantee (e.g., Chrysler) to borrow from private lenders; they enable other corporations to borrow at much lower rates than they otherwise could, since the government's guarantee eliminates all risk to the lender.

Services and information provided to business at taxpayer expense are a fourth kind of subsidy to business. Most commonly, taxpayers pay for research and development that is used by private industry. Business also gets statistical information, marketing services, technical assistance, advocacy, janitorial services--taxpayer-financed clean-ups of industry-generated waste--and many other types of largesse at taxpayer expense.

Certain government agencies--those whose primary purpose is to promote business or protect business from competition--are a fifth kind of taxpayer support of business. While the purpose of such agencies as the Environmental Protection Agency, Occupational Safety and Health Administration, and Consumer Product Safety Commission is to protect the public from the abuses of business, the purpose of other agencies is to protect business.

Cost figures for all corporate welfare programs in the first five categories are provided in this study and in the FY 1986 budget documents. The $107 billion total is the amount by which the deficit would be cut if these programs were eliminated. Corporate welfare programs in the sixth category--laws that subsidize business by restricting competition or limiting liability--do not directly affect the budget deficit. They do, however, impose substantial costs on both the economy and the consumer. We have described such laws and the costs they impose, but have not attempted to quantify those costs.

Table of Subsidies

Tax Expenditures	Cost (in $ billions)	Page
Investment tax credit	$38.371	6
ACRS	21.727	6
IDB's	4.470	7
Expensing of R&D	3.315	7
R&D credit	.995	7
Expensing of intangibles	2.670	8
Percentage depletion (oil)	1.140	8
Percentage depletion (non-oil)	.825	8
Expense account living	2.000	9
Capital gains--animals, minerals, timber	1.680	9
Possessions tax credit	1.585	9
Foreign-earned income exclusion	1.395	9
Foreign sales companies	1.000	9
Deferral	.344	10
Excess bad debt reserves	.875	10
Targeted jobs tax credit	.760	10
Dividend reinvestment	.280	10
Deferral of tax on shipping companies	.075	11
TOTAL	$ 83.507	
Direct Subsidies		
Agricultural subsidies--Commodity Credit Corp.	$12.564	12
Economic Development Admin.	.233	13
Urban Development Action Grants	.544	13
Airline subsidies	.053	13
Maritime subsidies	.365	14
TOTAL	$13.759	
Credit subsidies		
Rural Electrification Admin.	$ 2.779	15
Agricultural Credit Insurance Fund	1.247	15
FmHA Industrial Loan Program	.014	16
Export-Import Bank	.996	16
Synfuels Corporation	.328	16
TOTAL	$ 5.364	

Service/Information Subsidies

	Cost (in $ billions)	Page
Foreign Agricultural Service	$ .083	18
Agricultural Marketing Service	.029	18
Federal Crop Insurance Service	.437	18
Inland waterways	1.050	19
Nuclear energy	1.144	19
Fossil energy	.285	19
Solar energy	.240	20
Superfund	.080	20
Aeronautical Research	.670	20
TOTAL	$ 4.018	

The Corporate Welfare Bureaucracy

ICC	$ .054	21
MarAd	.029	21
FMC	.012	21
ITC	.029	22
Dept. of Commerce		
International Trade Admin.	.185	22
OPTI	.003	23
TOTAL	$ .312	

TOTAL COST OF ON-BUDGET CORPORATE WELFARE: $106.960 BILLION

Laws that Subsidize Business

Antitrust exemptions	?	24
Tariffs and quotas	?	24
Limitations on liability	?	25
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I. TAX EXPENDITURES

1. Investment Tax Credit

The investment credit allows corporations to reduce their tax liability by 10 percent of the cost of all new equipment they buy. Thus, if a corporation buys a machine costing $10,000, the corporation really only pays $9,000, and taxpayers in general pay $1,000. The effect is the same as if the corporation paid full price for the machine and the government sent it a $1,000 check.

The investment credit is by far the most expensive and perhaps the most wasteful corporate welfare program. It will cost American taxpayers more than $38 billion in fiscal 1986, yet, as Harvard Professors Alan Auerbach and Lawrence Summers have concluded, "the investment credit has had and continues to have an undesirable effect on the economy." First enacted in 1962, it has proved useless for combatting recession; it has created severe economic distortions by reallocating capital from structures to equipment; and it has failed to create jobs. On the contrary, because it provides a 10 percent subsidy to capital but no subsidy to labor--and thus encourages firms to buy a machine rather than hire a worker if both can do the same job and would cost the same amount--it may have even had the effect of eliminating jobs. Because it subsidizes capital and not labor, it also provides most of its benefits to capital intensive big business--most of which would have made the investment anyway--rather than labor-intensive small business.

The investment credit will cost U.S. taxpayers more in fiscal 1986 than food stamps, welfare, student loans, and V.A. medical care combined.

Cost of investment tax credit in FY 1986: $38.371 billion

2. Accelerated Cost Recovery System (ACRS)

ACRS allows businesses to deduct the cost of their new plant and equipment much faster than it actually wears out. For example, ACRS allows most equipment to be written off in 5 years, and most structures in 15. In combination with the investment credit, ACRS has allowed many large, capital-intensive corporations to pay little or no tax--or even get money back from the government. For example, during the past 3 years:

*General Electric had profits of $6.5 billion and not only paid no federal income tax but claimed $238 million in tax refunds;

*Dow Chemical had profits of $776 million and claimed $233 million in tax refunds;

*Union Carbide made $613 million and claimed $70 million in refunds; and

*W.R. Grace made $684 million and claimed $12.5 million in refunds.

In FY 1986 ACRS will cost American taxpayers roughly the same amount as Medicaid.

Cost of ACRS in FY 1986: $21.727 billion.

3. Industrial Development Bonds (IDBs)

IDBs are tax-exempt bonds issued by state or local governments. The governments make the proceeds of the bonds available to private firms. Because interest on the bonds is tax-exempt, businesses receiving the bonds can borrow at below-market interest rates. The federal government thus gives up revenues in order to subsidize the borrowing costs of private industry.

Cost of IDBs in FY 1986: $4.470 billion

4. Expensing of Research and Development Expenditures

Corporations may deduct the entire amount they spend on research and development in the year they spend it, even though the tax laws generally require taxpayers to deduct a portion of their investments each year during the period they produce income.

Cost of expensing of R & D in FY 1986: $3.315 billion

5. Research and Development Credit

If a corporation spends more money on research than it has in the past, it can reduce its tax liability by 25 percent of the difference between the amount it spends on R & D in the tax year and the average annual amount it spent during the past three years.

Cost of R & D credit in FY 1986: $995 million

6. Expensing of Intangible Drilling Costs

Oil companies may deduct the entire amount they spend for exploration and development in the year they spend it, even though the tax laws generally require corporations to deduct a portion of their investments each year during the period they produce income.

Cost of expensing of intangible drilling costs: $2.670 billion

7. Percentage Depletion for Oil Companies

Independent oil companies can automatically reduce their taxable income by 15 percent of their gross income from oil wells. Percentage depletion allows oil companies to recover the value of their oil many times over.

Cost of oil percentage depletion: $1.140 billion

8. Percentage Depletion for Industries Other than Oil and Gas

Corporations in many other extractive industries, in addition to independent oil companies, are allowed to deduct a percentage of their gross income as a depletion allowance. The percentage varies from 5 percent to, in most cases, 22 percent. The minerals eligible for the 22 percent depletion allowance include asbestos, bauxite (used in aluminum production), and clay, and even sand, stone and gravel get a 5 percent depleton allowance.

Cost of non-oil percentage depletion: $825 million

9. Deductions for Expense Account Living

Under current law, businesses are allowed a tax deduction for virtually any expenditure which is at all helpful or related to making a profit, including meals and entertainment expenses for employees and customers. Deductible activities include not only the fabled "three martini lunch" but also such things as yachts, hunting lodges, swimming pools, and fees paid to country clubs and other social, athletic, or sporting clubs. The result is that taxpayers in general subsidize the expenses of businesses and the leisure activities of business executives.

Cost of expense account living in FY 1986: **$2.000 billion***

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*Treasury Department estimate

10. Capital Gains Exclusion: Animals, Minerals and Timber

Sixty percent of the profit from the sale of timber, coal, and iron ore royalties is exempt from federal income tax. Also exempt is 60 percent of the profit from the sale of cattle, hogs, horses, mules, sheep, goats and donkeys. But profits from the sale of chickens, turkeys, pigeons, geese, other birds, fish, frogs and reptiles are fully taxable.

Cost of capital gains for animals, minerals and timber: $1.680 billion

11. Possessions Tax Credit

Corporations with plants in U.S. possessions can reduce their federal income tax by the tax attributable to those plants. The CBO has concluded that "a major effect of the exemption in the 1970's has been to induce U.S. firms to shift high-profit, low-labor activities to Puerto Rico, with relatively few benefits to the Puerto Rican economy."

Cost of possessions tax credit in FY 1986: $1.585 billion

12. Foreign-Earned Income Exclusion

Americans living abroad do not have to pay taxes on the first $80,000 they earn. This enables multinational corporations to pay their American employees much less than those employees would be paid if their income were fully taxable, and thus allows multinationals to reduce their costs.

Cost of foreign-earned income exclusions in FY 1986: $1.395

13. Foreign Sales Companies (FSCs)

Multinational corporations have traditionally been allowed to set up paper subsidiaries--domestic international sales corporations, or DISCs--through which they could defer indefinitely a portion of the taxes on their sales to other countries. In 1984, Congress replaced DISCs, which were probably illegal under the General Agreement on Tariffs and Trade (GATT), with FSC's--foreign sales companies. Essentially, corporations that set up FSC's are tax-exempt on a portion of their income from exports.

Cost of FSC's in FY 1986: $1.000 billion

14. Deferral of Income of Controlled Foreign Corporations

U.S. corporations operating through overseas subsidiaries are allowed to put off paying U.S. taxes on their foreign income until the earnings are brought home. So long as the profits and tax savings are reinvested in foreign countries, this "deferral" amounts to a permanent forgiveness of U.S. taxes. It also creates an incentive for firms to invest abroad rather than in the U.S., thereby exporting capital and jobs. A study prepared for the State Department showed that the U.S. would have had one million more jobs if U.S. corporations had attempted to serve foreign markets from a U.S. base. The largest 30 multinationals pick up over half the benefits of deferral.

Cost of deferral in FY 1986: $344 million

15. Excess Bad Debt Reserves For Financial Institutions

Most businesses may deduct a certain amount for bad debts based on their actual experience. Financial institutions, however, may deduct an amount for bad debts based on a special formula that has no relation to their actual experience. For example, some financial institutions may deduct up to 40 percent of taxable income as a bad debt allowance, even though most actually write off less than one percent of the amount they lend.

Cost of excess bad debt reserves in FY 1986: $875 million

16. Targeted Jobs Tax Credit

If a corporation hires a worker belonging to one of nine minority groups--including welfare recipients, ex-convicts or "economically disadvantaged" 18 to 24 year-olds--it can reduce its taxes by up to $3,000 for each such worker hired. A corporation hiring an equally disadvantaged 25 year-old who has never been on welfare or in jail does not get this tax break.

Cost of TJTC in FY 1986: $760 million

17. Dividend Reinvestment in Public Utilities

Utilities' first $750 in stock dividends ($1,500 on a joint return) are tax-exempt if reinvested in the utility's stock.

Cost of dividend reinvestment plan in FY 1986: $280 million

18. Deferral of Tax on Shipping Companies

Taxes are deferred on money put into special funds for the construction of vessels in U.S. shipyards. Taxes may be deferred indefinitely as long as the money initially deposited is reinvested in vessels built in the U.S.

Cost of shipping company tax deferral in FY 1986: $75 million

II. DIRECT SUBSIDIES

1. Agricultural Subsidies--Commodity Credit Corporation

According to the Appendix to the Budget, the CCC was created to, among other things, "stabilize, support, and protect farm income and prices." It does this through cash grants (deficiency payments), purchases of commodities, price support loans and credit and other compensation to farmers, exporters and foreign buyers. By law, the CCC must subsidize corn, cotton, wheat, rice, peanuts, tobacco, honey, milk, barley, oats, rye, sorghum, sugar, soybeans and seed cotton.

The CCC's programs disproportionately benefit large corporate farming. For example, in 1983, the largest 9.4 percent of wheat farmers received 42 percent of CCC deficiency payments; the largest 12.8 percent of corn farmers received 40 percent of the payments; and the largest 7.6 percent of cotton farmers received 33 percent of the payments. On the other hand, in 1980, the 33 percent of farms with sales below $5,000 received only 3.5 percent of all direct payments from the government.

As the administration acknowledges, taxpayers pay for farm subsidies in three ways. First, they pay for excess production. The CCC encourages production through price support loans and income support target prices; subsidized insurance against crop losses; and subsidized Farmers Home Administration credit for continuing expanding farm operations. Second, taxpayers pay to cut production: the CCC controls supply through acreage reductions, paid land diversions, and payment-in-kind programs. Finally, taxpayers pay to subsidize exports to get rid of the surplus because the first two actions artificially raise farm prices above world market levels.

According to the administration, CCC programs have created the following bizarre results:

* The Federal government buys 10 percent of U.S. milk at a taxpayer cost of about $2 billion per year, so that U.S. consumers pay over double the world price for dairy products;

* The U.S. sugar price is artificially kept above 20 cents per pound while the world price is less than 5 cents per pound;

* In 1984, $117 million of direct Federal cash payments went to wool producers, while the total value of wool production was only $62 million;

* The government acquired over half the honey produced in the U.S. in 1984, at a taxpayer cost of $ 90 million.

Cost of CCC in FY 1986: $12.564 billion

2. Economic Development Administration

EDA grants, loans and loan guarantees are granted primarily to large, established firms which already have access to private financing. Capital access alone will not induce such firms to locate in genuinely distressed areas, given the other deterrents to such locations; evidence indicates that EDA programs do not, in fact, influence plant locations. Moreover, there is little evidence that EDA grants have created net new jobs or capital; rather, such grants have merely shifted jobs and capital around--at a cost of $9.4 billion to the federal deficit over the past eight years.

Cost of EDA in FY 1986: $233 million

3. Urban Development Action Grants

Although UDAGs are used for a variety of urban projects, most of the funding is used to promote business: 58 percent of the grant money is used to fund commercial projects, 28 percent to fund industrial projects. Among the recipients of taxpayer largesse through UDAG grants have been the Hyatt Corporation, General Motors, and Sherman-Williams. Nationwide, for example, UDAGs have been used to help build 262 hotels. The nonelectrical machinery and fabricated metal products industries have also been frequent UDAG beneficiaries, according to the CBO.

Moreover, UDAGs are simply a weapon in a war between states and localities which business can't lose but taxpayers can't win. For example, New York City and Jersey City have been engaged in a bidding war for commercial projects--at taxpayers' expense--that began with a $40 million UDAG grant to Jersey City. Thus, the administration characterizes UDAG grants as "an expensive taxpayer-supported shell game which lures jobs and investment from one location to another."

Cost of UDAGs in FY 1986: $544 million

4. Airline Subsidies

The federal government subsidizes air carriers in order to guarantee service to communities that had air carrier service before airline deregulation went into effect. The Treasury Department administers this program (until the CAB went out of business in 1984, it had run the program). Almost half the cities receiving the subsidy are within 100 miles of a major hub airport. Moreover, the subsidy guarantees airlines a set profit as a percentage of costs, thus leaving them little incentive to hold their costs down.

Cost of the airline subsidy in FY 1986: $53 million

Maritime Subsidies

Through direct cash grants, the Maritime Administration heavily subsidizes the operating costs of U.S. flag ocean liners, thus reducing the incentive of the industry to become more efficient and competitive with foreign fleets. MarAd also issues construction loans and mortgages for construction or conversion of vessels, and does research and development for the industry.

Cost of maritime subsidies in FY 1986: $365 million

III. CREDIT SUBSIDIES

1. Rural Electrification Administration

The REA subsidizes the development of electricity and telephone service in rural areas, using two funding vehicles. The Rural Electrification and Telephone Revolving Fund (RETRF) provides direct loans at a maximum rate of 5 percent for 35 years. The Federal Financing Bank makes direct loans which are then guaranteed by the REA. The REA loans are charged at the Treasury's borrowing rate plus one-eighth of one percent. They primarily finance electrical generating facilities, such as nuclear power plants, which are often jointly owned by REA cooperatives and investor-owned utilities. But for REA financing, many nuclear plants might not be built.

REA loan guarantees primarily go to subsidiaries of holding companies or to independent corporations with strong credit ratings, both of which are capable of borrowing in private credit markets. As the Democratic Study Group pointed out in 1981, "the major reason that these systems have not converted to using the private sector as a major capital source is the highly favorable term structure--on both the direct and guaranteed lending side--offered by REA." The REA also furnishes business management and technical assistance on a regular basis to its borrowers through regulations, personal visits and training.

Cost of REA in FY 1986: $2.779 billion

2. Agricultural Credit Insurance Fund

A part of the Farmers' Home Administration, the ACIF provides loans and loan guarantees for farm ownership and operation. Maturities are 35 to 40 years, and the interest rate is the rate the ACIF gets from the Treasury plus a small administrative fee. Farm operating loans have shorter maturities, but about the same interest rate. Disaster loans, which pay for damage to farmland and equipment caused by natural disasters, are issued at eight percent interest. Loan guarantees have the same maturity as loans, but interest rates are negotiated directly with the lender.

The ACIF has approximately $26 billion in loans outstanding. In FY 1985, it made $3.4 billion in direct loans and $706 million in loan guarantees. Outlays for the ACIF in FY 1986 are approximately $1.247 billion.

Cost of ACIF in FY 1986: $1.247 billion

3. Farmers Home Administration Business and Industrial Loan Program

Among other things, the FmHA provides loan guarantees for business and industrial development in rural areas. At the end of FY 1984, the FmHA had an outstanding portfolio of $3.3 billion in loans and loan guarantees for such development. As the administration points out, "reliance on federal financing for business development is less efficient economically than reliance on private capital markets."

Cost of FmHA industrial loan program in FY 1986: $14 million

4. Export-Import Bank

The purpose of the Ex-Im Bank is "to aid in financing and to facilitate U.S. exports," according to the administration. The Bank "assume[s] commercial and political risks that exporters or private institutions are unwilling to undertake," although the exporters and private institutions get any profits of such taxpayer-assumed risks. The Bank operates four programs that facilitate the sale of U.S. goods abroad: direct loans to foreign buyers, discount loans, loan guarantees and insurance.

As the administration pointed out in 1981, "a large proportion of the Bank's annual lending supports exports by a handful of large firms." In 1980, for example, two-thirds of the Bank's loans went to seven giant corporations which produce nuclear plants, aircraft and other high technology items: Boeing, Westinghouse, General Electric, McDonnell Douglas, Combustion Engineering, Lockheed and Western Electric. Such beneficiaries of Ex-Im Bank largesse argue that they need the subsidies to meet foreign subsidized competition; however, foreign subsidies have been reduced by more than 80 percent over the past four years, according to the Organization for Economic Development.

Cost of Ex-Im Bank in FY 1986: $996 million

5. Synthetic Fuels Corporation

In 1980, Congress established a massive taxpayer-subsidized program for the development of synthetic liquid fuels from oil shale, coal and tar sands. In short, the taxpayer takes the risks and the major oil companies take the profits, if any: as the Appendix to the Budget acknowledges, "private sector firms will plan, construct, operate and/or own the synthetic fuels plants, but will receive financial assistance from the Corporation in the form of purchase agreements, price guarantees, guaranteed loans, and direct loans."

The Synfuels Corporation estimates that it will make additional awards totaling $4.1 billion in 1985 and $3.6 billion in 1986. Outlays for FY 1986 are presently expected to total about $330 million, but may increase, according to the administration, "depending on developments in the world oil market" and other factors.

Cost of Synfuels Corporation in FY 1986: $328 million

IV. SERVICE AND INFORMATION SUBSIDIES

1. Foreign Agricultural Service

The FAS is committed to enabling "American farmers and traders to take maximum advantage of increased opportunities to sell U.S. agricultural commodities abroad and to help increase U.S. farm income," according to the administration. The FAS seeks to "provide consolidated trade services and marketing expertise to commodity exporters," stimulate interest in exporting farm-grown products, improve and coordinate market development techniques, share financial risks inherent in market exploration and lend official government representation to the conduct of business abroad. Each of these activities is designed expressly to benefit farmers and exporters.

Cost of FAS in FY 1986: $83 million

2. Agricultural Marketing Service

AMS activities "assist producers and handlers of agricultural commodities by providing a variety of marketing services," according to the administration. Among other things, they are designed to "improve the competitive position and expand markets for cotton, beef, eggs, wheat, and wool," and to "promote U.S. foreign trade of various fruits." Thus, taxpayers subsidize promotional efforts for certain farm products; ironically, these efforts often can be successful only if the markets for other farm commodities are reduced.

Cost of AMS in FY 1986: $29 million

3. Federal Crop Insurance Corporation

The purpose of the Federal Crop Insurance Corporation is to "improv[e] the economic stability of agriculture," according to the Appendix to the Budget. For FY 1986 the FCIC will provide approximately $8.6 billion in insurance protection to farmers, administered through its Washington, D.C. headquarters, its Kansas City national operations office, 18 field operations offices and 11 field actuarial officers.

Cost of federal crop insurance in FY 1986: $437 million

4. Subsidies to Barge-Operators--Inland Waterways

The nation's commercial navigation system is operated and maintained by the Army Corps of Engineers at a cost of $1.1 billion in FY 1986. Users of the system, however--primarily barge operators--pay only $50 million to use the system.

Cost of subsidy to barge operators in FY 1986: $1.050 billion

5. Subsidies to the Nuclear Industry

According to former Energy Department analyst Joseph Bowing, federal subsidies to the nuclear industry totaled $40 billion between 1950 and 1979. The Reagan administration has continued these subsidies, not only by doing research and development for the nuclear industry, but also by intervening in federal and state regulatory hearings to ensure favorable treatment of nuclear utilities, by pushing state regulatory commissions to permit inclusion of Construction Work in Progress (CWIP) funds in the rate bases of utilities, and by reviewing the operating licenses of mothballed nuclear plants to see whether and how the operating procedure could continue.

According to the Appendix to the Budget, the nuclear fission program of the Energy Department will use taxpayers' money to "pursue technology development efforts with the private sector," to help clean up Three Mile Island, and to clean up the waste from uranium mining and other contaminated sites, even though private industry has created the waste and has kept any profits from the activities that spawned the waste. Taxpayers also pay for "advanced technology development for industrial applications" of nuclear fusion.

Cost of nuclear industry subsidy in FY 1986: $1.144 billion

6. Fossil Energy Subsidies

Taxpayers pay for research and development that will benefit the coal industry. The objective of the coal program, as the Appendix puts it, is to "provide an adequate scientific and engineering knowledge base to foster technological advances by the private sector." For example, "surface and underground coal gasification research will be continued to provide data for effective technology transfer to industry." Similarly, taxpayers pay for "the exploration, development, and production of petroleum resources" to benefit the oil industry.

Cost of fossil fuel subsidies in FY 1986: $285 million

7. Solar Energy Subsidies

According to the Appendix, "the solar energy program will conduct research and development to help the U.S. private sector develop solar technologies as competitive energy supply options."

Cost of solar energy subsidy in FY 1986: $240 million

8. Superfund

Superfund helps finance the clean-up of toxic waste dumpsites. While 87.5 percent of its funding comes from taxes on industries, the remainder--currently $80 million--is provided by taxpayers. So far, only six of our estimated 22,000 hazardous waste sites have been cleaned up; more funding is clearly needed. Because Superfund's authorization expires in September 1985, Congress will have to reauthorize the program this session.

Cost of taxpayer contribution to Superfund in FY 1986: $80 million

9. Aeronautical Research and Technology

The aeronautical research program in the National Aeronautics and Space Administration "conducts research and develops technology for future military and civil aircraft through support for the staff, major facilities and other activities of the three major aeronautical centers," according to the Appendix to the Budget. While other NASA programs may have commercial benefits, they are intended for purposes other than commercial aid. But the purpose of the aeronautical research and technology program is "to help U.S. commercial aviation," according to the CBO.

Cost of aeronautical research program in FY 1986: $670 million

V. THE CORPORATE WELFARE BUREAUCRACY

1. The Interstate Commerce Commission

In recent decades, the ICC has regulated the railroad and trucking industries for the benefit of the industries, not the public. It has made it extremely difficult for new companies to enter the trucking industry; it has prevented companies from offering innovative price/service alternatives; and it has served as an enforcer of price-fixing agreements. Such agreements, which are felonies in most other industries, were legalized in the trucking industry by the Reed-Bullwinkle Act in 1948.

In 1980, Congress passed legislation partially deregulating the trucking industry; a few years earlier it had partially deregulated the rail industry. New entry became somewhat easier and antitrust immunity was somewhat restricted. Nevertheless, the ICC continues to regulate rates. Abolishing the ICC would save taxpayers $54 million in FY 1986 and would lower prices to shippers and consumers.

Cost of ICC in FY 1986: $54 million

2. The Maritime Administration

The Maritime Administration administers the operating subsidies given to the maritime industry and also does research and development for the industry. These are explained in Section II above. In addition, the Maritime Administration budget contains $29 million in FY 1986 for administrative costs. With the industry forced to stand on its own two feet, these costs can be eliminated also.

Cost of MarAd bureaucracy in FY 1986: $29 million

3. The Federal Maritime Commission

Like the ICC, the FMC regulates to protect the industry--in this case the maritime industry--not the public. Historically, the FMC has functioned as an enforcer of price-fixing agreements among ocean carriers. In 1984 Congress passed legislation expanding the industry's antitrust immunity--it expressly allowed ocean carriers to "discuss, fix and regulate rates" and "control, regulate, or prevent competition in international ocean transportation." It also strengthened the ability of the FMC to enforce price-fixing agreements among carriers. Abolishing the FMC would save taxpayers $12 million in FY 1986. In addition,

removing the FMC as an enforcer of price-fixing agreements would be likely to encourage "cheating" on such agreements among carriers, and thus to lower prices to consumers.

Cost of **FMC** in FY 1986: **$12 million**

4. International Trade Commission

The purpose of the ITC is to investigate complaints by American business about "unfair" foreign competition and to advise the President and Congress about how to protect American businesses that cannot compete with foreign firms. The ITC may recommend several actions that both raise prices to consumers and reduce the incentive of American businesses to become more efficient, including duties and quotas. Among the leading complainers to the ITC are the steel, chemicals, and machinery industries.

Cost of International Trade Commission in FY 1986: $29 million

5. Department of Commerce Agencies

The Commerce Department does much necessary work that benefits the general public. For example, it takes the census and it forecasts the weather. On the other hand, the Commerce Department also does work that merely protects and promotes business at taxpayers' expense. For example:

A. International Trade Administration

According to the Appendix to the Budget, the activities of the International Trade Administration are designed "to promote an improved trade posture for U.S. industry...." Among the ITA's duties are "provid[ing] marketing services directly and through the Foreign Commercial Service which will assist U.S. industries to expand exports"; "counseling U.S. businessmen on exporting" in 48 offices in the U.S. and 66 in foreign countries; and "promot[ing] and facilitat[ing] participation of U.S. firms in trade shows." Such functions should be paid for by those that benefit from them--U.S. businesses that export--rather than the taxpayers.

Cost of ITA in FY 1986: $185 million

B. Office of the Assistant Secretary for Productivity, Technology and Innovation (OPTI)

According to the Commerce Department's most recent annual report, the office "provides essential business information and analysis to the private sector" and "identifies and eliminates barriers to productivity growth." To overcome such "barriers" this office recommended "modifying antitrust laws for joint research and development" and "strengthening research and development tax incentives." This office has also urged weakened product liability laws.

Cost of OPTI in FY 1986: $3 million

VI. LAWS THAT SUBSIDIZE BUSINESS

Laws that prevent, restrict or distort competition are the final type of business subsidy. While the costs of such laws in the form of higher prices and lost efficiency and productivity are enormous, they are extremely difficult to quantify.

Such "law subsidies" fall into four different categories:

* antitrust exemptions--laws that legalize price-fixing;
* tariffs and quotas--laws that prevent or restrict competition from abroad;
* limitations on liability; and
* laws that restrict buying, such as cargo preference or "Buy American" laws.

1. Antitrust Exemptions

Exporters, insurance companies and farmers all have their own antitrust exemptions. Under the Webb-Pomerene Act and the Export Trading Company Act of 1982, corporations may legally fix prices on items they export. This makes price-fixing in the U.S. on exported items both more likely to occur and more difficult to detect, thus raising prices to consumers.

Under the McCarren-Ferguson Act, insurance companies can legally fix prices. In 1979 the Federal Trade Commission released a study concluding that many insurance companies were making supra-competitive profits, at least in part because of the McCarren exemption. Congress responded by prohibiting the FTC--which was already prohibited from suing insurance companies--from even studying the industry.

Finally, the Capper-Volstead Act allows "farmers, planters, ranchmen, and nut or fruit growers" to "act together in association" in "collectively processing, preparing for market, handling and marketing..." Thus, for many agricultural commodities, the Department of Agriculture oversees the design and conduct of "marketing orders," which permit producers and their cooperative organizations to determine the quantities of individual commodities to be sold for different uses and, in some cases, the prices at which such commodities will be sold.

2. Tariffs and Quotas

Tariffs and quotas restrict the availability of foreign goods--either by restricting their supply or by raising their price--thus allowing U.S. manufacturers to raise their prices, too. Perhaps most well-known are the automobile quotas--euphemistically known as "voluntary restraints." Under the "voluntary restraint" agreement, Japanese manufacturers may export

to the U.S. only 1.85 million cars a year--far less than the demand--thus both raising the price of Japanese cars and allowing U.S. auto manufacturers to charge more for their cars. The result? Since the quotas were imposed, car prices have risen by double the rate of inflation, so that the average car now costs more than $10,000. And auto companies have been earning record profits.

Tariffs--duties on foreign goods--also raise prices. In 1980, tariffs cost consumers an estimated $7.5 billion. The cost of machinery, clothing, transportation equipment, chemicals and iron and steel are all more than $500 million greater because of tariffs.

3. Limitations on Liability

The most well-known limitation on liability is the Price-Anderson Act, which limits private liability in the case of a nuclear accident to $560 million, regardless of the damage caused by the accident. This limitation has allowed the nuclear industry to expand without paying for the risk of nuclear disaster.

"Since both the probabilities and the consequences of a serious nuclear accident are unknown and vigorously disputed, it is not possible to calculate even an approximate size for the Price-Anderson subsidy with any degree of confidence," according to Amory Lovins of the Rocky Mountain Institute. But it is clearly substantial.

4. Restrictions on Buying

Under the so-called "Buy American" Act, the federal government must buy everything it uses from U.S. corporations, even if foreign corporations will sell the same items at a lower price.

Methodology

The Congress Watch corporate welfare budget includes only those federal programs that directly and primarily benefit business and are intended to benefit business. It does not include programs that are intended to and do directly benefit individuals--even if businesses receive substantial indirect benefits from them. For example, the mortgage interest deduction increases the demand for and price of houses, and thus benefits the real estate and home building industries. But because the immediate beneficiaries of the deduction are individuals, who get a tax break when they buy a house, the deduction is not included as corporate welfare. Similarly, low income housing assistance indirectly benefits the housing industry and food stamps may indirectly benefit agribusiness, but such programs are not included as corporate welfare because the intended beneficiaries of those programs are poor people.

This study also does not include as corporate welfare aid rendered to quasi-governmental corporations, such as the Tennessee Valley Authority, the Government National Mortgage Association, ("Ginnie Mae"), Amtrak, the Federal National Mortgage Association, ("Fannie Mae"), or the Federal Home Loan Mortgage Corporation ("Freddie Mac").

Finally, this study also excludes all expenditures by the Defense Department, even expenditures that could be included as corporate welfare, e.g., the amount by which $800 toilet seats, $700 hammers, or $400 coffee pots exceed the fair market value of these items. The focus of this study is strictly domestic spending on corporations.

The cost estimates for all direct, credit, service and bureaucratic corporate welfare programs included in this study are from the FY 1986 U.S. Government budget documents. In most cases the estimates are the "current services" outlay estimates for FY 1986--the anticipated costs of continuing ongoing federal programs at present levels without policy changes. These estimates can be found in Special Analysis A of the Budget. For programs the administration has proposed to cut, "current service" estimates can also be found in the budget document entitled "Background on Major Spending Reforms and Reductions in the Fiscal Year 1986 Budget." Occasionally, the current services estimates in Special Analysis A are not broken out in sufficient detail for this study. In those cases the current service estimate is extrapolated from the estimate for FY 1985, which can be found in the Budget and the Appendix to the Budget.

Unless otherwise noted, tax expenditure revenue estimates are from "Estimates of Federal Tax Expenditures for Fiscal Years 1984-89," by the Joint Committee on Taxation, November 9, 1984.

The descriptions of the various corporate welfare programs are based on information from the FY 1986 Budget documents and from the following additional sources:

Office of Management and Budget, Major Themes and Additional Budget Details, FY 1985;

Office of Management and Budget, America's New Beginning: A Program for Economic Recovery, February 18, 1981;

Congressional Budget Office, Federal Support of U.S. Business, Jan. 1984;

P. Morici and L. Megna, U.S. Economic Policies Affecting Industrial Trade, 1983;

Democratic Study Group, Special Report: The Stockman Hit List, Feb. 7, 1981;

Citizens for Tax Justice, The Failure of Corporate Tax Incentives, Jan. 1985.

VIII. CONCLUSION

To say fairness demands that corporate welfare be cut when aid to old, blind and disabled people has already been cut is laboring the obvious.

But in addition, corporate welfare distorts the economy. It directs investment away from those businesses that are the most productive and efficient and toward those that get the greatest tax benefits, direct subsidies or low-interest loans. The result is a less efficient and less productive economy than would exist if the free market determined where investment went.

Finally, corporate welfare programs do not require the corporations that receive government aid to do anything in return. If Congress and the President decide that corporate welfare should continue, then they should also institute corporate workfare: in order to get cash grants or tax benefits corporations could be required to benefit the public in some way--for example, by lowering their prices, improving worker safety, or improving the quality of their products.

Otherwise, corporate America will continue to lose ground to foreign competition, secure in the knowledge that if it can't make it on its own, the corporate welfare system will always be around to bail it out.

A F D C

AID FOR DEPENDENT CORPORATIONS

A Study of the

Fiscal 1984 Corporate Welfare Budget

by

Public Citizen's Congress Watch

April, 1983

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1

TABLE OF 1984 CORPORATE SUBSIDIES

On-Budget Items	FY 1984 Subsidy (in billions of dollars)
ENERGY INDUSTRY	
Nuclear	
•Research	$0.57 billion
•Clinch River Breeder Reactor	0.27
Synthetic Fuels	13.50
Oil	
•Expensing of Intangibles	3.23
•Oil Depletion Allowance	1.51
FOOD INDUSTRY	
Agricultural Price Supports	6.40
Water Projects	0.82
CORPORATE TAX BREAKS	
Capital Intensive Investment	
•Corporate Capital Gains	1.90
•Investment Tax Credit	23.02
•Expensing of R & D Expenditures	2.37
•Accelerated Depreciation	16.08
•Tax Leasing	2.42
•R & D Credit	0.70
General Corporate Tax Breaks	
•Domestic International Sales Corporation (DISC)	1.49
•Deferral	0.61
•Possessions Tax Credit	0.95
•Foreign Earned Income Exclusion	2.03
•Business Meals and Entertainment Deduction	2.00
•Depletion Allowance for Non-Oil Industries	0.94
•Corporate Capital Gains: Animals & Minerals	0.59
TRANSPORTATION	
Corporate Shipping Subsidies	
•Maritime Industry	0.40
•Tennessee-Tombigbee Waterway	0.10
MISCELLANEOUS CORPORATE SUBSIDIES	
Export-Import Bank	0.70
TRIS: Pajama-Makers' Subsidy	0.06
TOTAL FY 1984 CORPORATE BUDGET SUBSIDIES	$82.66 billion *

* Source: See each section of the AFDC report for the source of these subsidy figures.

(TABLE OF 1984 CORPORATE SUBSIDIES CONT.)

Off-Budget Items	FY 1984 Subsidy (in billions of dollars)
ENERGY INDUSTRY	
Gas	
◦Alaska Natural Gas Pipeline	UNKNOWN
Nuclear	
◦Price-Anderson Act	UNKNOWN
TRANSPORTATION	
Cargo Preference	UNKNOWN
FOOD	
Sugar Import Tariff	3.00

INTRODUCTION

President Reagan and the Congress could cut the fiscal 1984 Federal budget deficit nearly in half by eliminating government subsidies for corporate America. Without even touching military or social program spending, 82.66 billion taxpayer dollars that the President plans to give away to corporations can be restored to the Treasury. The following report challenges the President and Congress to live up to their free market and limited government principles by getting big business off the dole.

The AFDC report--Aid For Dependent Corporations--describes the direct Federal corporate subsidies hidden in the President's 1984 budget proposals.[1] These corporate welfare programs are assembled by issue area--energy, food, transportation, investment--and compared in magnitude with social program expenditures.

What is a Corporate Subsidy?

In a free market economy, individuals risk their own resources by investing in research, training and raw materials, to produce goods which may be sold at a profit in the market. Whenever the government reduces the cost or risk of private investment, it subsidizes business activity. This report focuses on the most direct forms of Federal support for corporate

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[1]Four of the corporate subsidies included in this report will have no cost impact on this year's Federal budget: the Cargo Preference, Sugar Import Tariff, Price-Anderson Act and the Alaska Natural Gas Pipeline. They are included to show the degree of industry insulation from the market cost of investment and risk, through consumer subsidies or future budget outlays.

activities:

1. government investment in private industry, like Federal construction of water projects that furnish the water to irrigate arid farm land;

2. government research and development to promote private commercial activity, like Federal construction of the plutonium producing Clinch River Breeder Reactor;

3. government training programs for private employees, like the Maritime Administration financing the education and training of personnel on commercial vessels;

4. government lending at less than market interest rates, like low-interest loans offered by the Export-Import Bank to foreign purchasers of American products;

5. government backing of private loans, like Federal guarantees to repay the principal and interest on private loans to the synthetic fuels industry (through the federally run Synthetic Fuels Corporation);

6. government imposed limits on private risk, like the Price-Anderson Act's ceiling on the nuclear industry's financial responsibility for a nuclear accident;

7. government-guaranteed minimum prices, like the Agriculture Department's price supports for numerous agricultural commodities; and

8. tax exemptions, deductions and credits that distort the investment cost of business activity, like Federal financing of ten percent of the cost of machinery through the investment tax credit.

While these eight forms of corporate subsidy are meant to do more than promote commercial activity, their primary effect is to distort the business investment and risk marketplace.[1]

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[1]One direct corporate subsidy not included in this report is military waste. Non-competitive bidding for defense contracts and uncontrolled cost overruns waste taxpayers' dollars to pad the pocket of the weapons industry. Since this report purposefully excludes discussion of the Federal military budget, military waste is not addressed.

Other Federal programs, whose primary effect is to benefit individuals, also reduce the cost and risk of private investment. For example, in 1984, individual taxpayers are expected to reduce their taxes by over $13 billion through the 60 percent tax exemption of income from the sale of stocks and bonds. While this tax exemption provides corporations an investment war chest, its immediate effect is to reduce the tax liability of individuals with wealth to invest. Therefore, for the sake of simplicity, this report includes only subsidies that primarily benefit corporations.

Why Focus on Corporate Subsidies?

A careful evaluation of the need for corporate subsidies should be appealing to public officials of all political persuasions:

* First, strong supporters of a free market, like President Reagan, claim to be even-handed in their advocacy of reduced government involvement in the marketplace. If they are true to their word, they should attempt to shrink corporate welfare, not just social welfare programs.
* Second, many supporters of free enterprise who believe that policy considerations justify some government subsidies, support the least intrusive market distortions. They should be inclined to eliminate corporate subsidies that fail to yield their intended result or spread benefits to a broader universe than mandated by Congress.

* Third, numerous legislators who are less interested in a free market than in the comparative merits of government programs, support an orderly program of Federal spending. They should oppose the backdoor establishment of spending priorities through corporate tax breaks, government extension of credit that distorts private lending, and artificial limits on industry liability.

* Finally, all cost-conscious politicians who wish to reduce the snowballing Federal deficit must ask themselves why the American taxpayer should finance over $82.66 billion worth of business activity that the private sector is perfectly capable of financing on its own.

A CHALLENGE TO PRESIDENT REAGAN AND CONGRESS

Consistent Application of Free Market Principles

> "...I think we're on the right track by keeping government out of the energy field." President Reagan, statement on signing S. 1018 into law, October 18, 1982.

Despite his free market rhetoric, President Reagan hopes to pump billions of Federal dollars into corporate pockets. His hand-picked head of the Synthetic Fuels Corporation, Edward Noble, plans to disburse $15 billion to fund private production of overpriced synthetic fuels. Besides providing loan guarantees for 75 percent of the industry's investment, the Reagan Administration promises to pay more than double the market price for the first 30 million barrels of oil or gas each synthetic fuels plant produces. Strangely enough, the Administration seeks to expand oil supplies in the midst of a worldwide oil glut and finance the project by adding $15 billion to the largest Federal budget deficit in history! Ideological consistency, if not common sense, should drive the President's free market supporters in Congress to eliminate his synthetic fuels subsidy program.

In similar fashion, the President's corporate tax reduction policies distort the investment marketplace to favor particular industries. The oil industry will receive over $4 billion worth of special tax breaks next year, and companies that invest in new equipment will get $23 billion. While some of these tax breaks simply reward corporations for doing things they already intend to do-- like buy new machinery and conduct new product research--others lead to an inefficient allocation of investment

dollars. Rather than allow capital to flow to the investment that yields the greatest return, as in a free market, the President's tax policy spurs investment in less efficient activities that simply reduce tax liability. For example, in 1981, the Standard Oil Company of Indiana (Amoco) reduced its planned energy investments to take advantage of President Reagan's tax leasing (the purchase and sale of tax breaks) program.[1]

Fashion Narrow Subsidies For A Particular Market Problem

Even the staunchest supporters of a free market believe that occasional Federal intervention into the marketplace is necessary to achieve particular policy goals. Where the market fails to function due to structural factors--like monopoly pricing in industries with few producers or inadequate consumer information--or marketplace equilibrium fails to meet national security needs, the government must intervene. To prevent distortion of markets that function smoothly on their own, however, Federal activity must be targetted to address specific problems.

Numerous Federal programs designed to address legitimate policy concerns subsidize corporate activity beyond their intended scope. For example, the government offers farmers low-interest loans, insures their private loans, limits competition in agricultural markets, and sets minimum commodity prices to

[1]The Reagan Tax Shift: A Report on the Economic Recovery Tax Act of 1981, Citizens for Tax Justice, March 31, 1982 at I-9.

ensure the survival of small, family-farms and guarantee adequate food supply for the American people. Yet by offering these subsidies to small and large farmers alike, the government pads the pockets of large agricultural concerns and stockpiles tons of overproduced, unmarketable agricultural goods. Why shower Federal benefits on farming conglomerates--that also receive lavish corporate tax breaks--when the family farmer is the intended target of public funds?

Even worse than the government's failure to tailor this subsidy to needy farmers, is the fact that the family farm is disappearing despite Federal subsidies. The price support program enhances the earnings of big farmers without providing the economic stability that small farmers need to stay in business.

Similarly, many corporate tax breaks meant to spur productive economic activity result in unproductive wealth-sheltering practices. The accelerated depreciation plan in President Reagan's tax program, which allowed corporations to deduct more than one dollar for each dollar spent on new equipment, was meant to increase capital investment, improve productivity and expand employment. Instead, since the Reagan tax program took effect:

* private domestic investment declined 16%,[1]
* the rate of productivity growth fell 60%,[2] and
* unemployment increased by 37%.[3]

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[1]Bureau of Economic Analyses, U.S. Department of Commerce.

[2]Economic Report of the President, February, 1982.

[3]Bureau of Labor Statistics.

What did the corporate community do with its billions of dollars of tax savings? The preceding figures demonstrate that many companies, rather than increase productive investment, shielded their tax savings from marketplace risks. In 1981, Corporations spent an all-time high of $82.6 billion on mergers which diverted $34 billion from the nation's credit market.

Toward A Rational Policy-Making Process

While the budget process involves open debate of social programs and military spending, corporate subsidy programs easily escape scrutiny. Instead of being listed as line items in the budget, like the Food Stamp program, corporate welfare resides between the lines--in tax revenue not collected and loans not repaid. This means that when politicians ask for across-the-board budget cuts, most corporate subsidies go untouched.

Also, once established, corporate subsidies may grow to dominate other Federal programs. In energy policy, the government has promoted development of numerous energy sources for many years. Now, Department of Energy belt-tightening leaves solar energy and energy conservation with reduced funding, while the oil industry reaps the benefit of a $4.74 billion tax break. Of course the greatest hidden energy industry subsidy is the Price-Anderson Act, which protects the survival of the nuclear industry like no private insurance policy imaginable; the Act limits industry financial responsibility

for nuclear accidents, regardless of fault, to $520 million.[1]

Last but not least, failure to coordinate one Federal program with another often results in the government wasting taxpayers' dollars to promote something it also spends money to prevent. For example, owners of tobacco-growing land receive supply-restricting marketing quotas that boost cigarette industry profits, while Federal health agencies attempt to reduce cigarette smoking. Similarly, Federal water projects subsidize the irrigation of corn-growing land, while the Agriculture Department tries to convince corn farmers to grow less corn.

These examples illustrate why the budget process fails to establish clear rational priorities. Regardless of their political persuasion, policy-makers cannot adequately assess the merits of one Federal program as opposed to another, unless all cards are laid on the table. A comprehensive discussion of public priorities will not be complete until President Reagan and Congress scrutinize the universe of corporate welfare.

** What follows is the Aid For Dependent Corporations ** (AFDC) 1984 Budget, accompanied by text that compares trends in corporate and social welfare spending.

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[1] 42 United States Code at 2210.

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ENERGY

President Reagan speaks glowingly of the magic marketplace, while his energy policy plays tricks with free enterprise. Laissez-faire logic is invoked to justify natural gas deregulation and cuts in solar, conservation and low-income energy assistance programs. Yet the Administration leaves untouched Federal programs that distort the market for nuclear energy, oil, synthetic fuels and natural gas. In fact, the President's policies have aggravated these distortions.

For example, the nuclear industry would have difficulty surviving in a free market, but government intervention keeps it afloat. Cost estimates of a worst case nuclear accident range from several billion to several hundred billion dollars (the clean-up of the partial meltdown at Three Mile Island will cost at least $1.0 billion[1]). Without the Price-Anderson Act's limitation on industry liability for nuclear accidents, insuring the nuclear industry makes underwriting bank loans to Mexico look like a solid investment.

The Three Mile Island incident, across the board cost overruns, and a precipitous drop in consumer demand have made investment in nuclear power about as attractive as a chemical waste dump. Since 1974, there has not been a single new order for a nuclear reactor in the U.S. Not coincidentally, the Export-Import Bank has kept the nuclear industry on its feet by extending $7.4 billion in nuclear-related loans and guarantees, most of it

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[1]General Public Utilities Corporation, February 1, 1983.

in recent years.[1] Last year for instance, 22 percent of the Bank's direct loan authority was committed to a single $858 million loan to Taiwan for two reactors.[2]

Though domestic demand has fizzled and a high-level Administration report envisions a dismal economic outlook for nuclear power,[3] it continues to gobble larger portions of the energy budget pie, leaving alternative energy sources with only crumbs. 84 percent of the Administration's $1.9 billion energy technology budget for 1984 is devoted to to nuclear energy programs, more than double the 39 percent chunk it received in 1981.[4]

While scorning market signals in the crippled nuclear industry, the Administration advocates "greater reliance on the private sector" for promoting solar power and energy conservation.[5] 1984 funding requests for these programs are 85 to 90 percent lower than 1981 levels.[6] The $175 million request for solar and energy conservation programs roughly equals the amount of money the top twelve oil companies paid their officers and directors in 1979.[7]

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[1] Export-Import Bank of the U.S., Authorizations for Nuclear Power Power Plants and Training Centers.

[2] Virginia Foote, Center for Development Policy, testimony before the Subcommittee on International Trade and Monetary Policy, September 16, 1982, p. 373.

[3] Critical Mass Energy Journal, February, 1983, p. 3.

[4] Subcommittee on Energy Conservation and Power, Summary of Reagan FY 84 Budget Request.

[5] Budget for FY 1984.

[6] Subcommittee on Energy Conservation and Power, Summary of Reagan FY 84 Budget Request.

[7] Moskowitz, Katz and Levering, Everybody's Business, Harper & Row, 1979, p. 529.

Though solar and conservation are left to the mercy of the market, laissez-faire isn't good enough for the oil industry. Tax incentives to encourage oil exploration will drain the Treasury of $4.74 billion in 1984. Why an industry that has made at least $100 billion in the last five years should need any incentive other than the market is bewildering.[1]

While the government treads cautiously into solar and conservation programs, it rushes in to help the oil industry develop synthetic fuels. The Synthetic Fuels Corporation (SFC) plans to spend $15 billion on loans and guarantees to develop a source of fuel which has severe economic and environmental drawbacks. 49 of the 52 important synfuels patents are owned by the oil industry, and it is rapidly gaining control of the liquefied coal and oil shale reserves needed to produce the fuel.[2] Despite the government's eagerness to help, private industry is shrinking away from synfuels. Citing high costs and slack demand, Exxon last year scrapped a synfuels project that was being aided by a $1.2 billion loan from the SFC.[3]

Market forces have also been shunned in the construction of the natural gas pipeline from Alaska to the continental U.S. After banks and private investors gave the project a thumbs-down, Congress and the President reversed their free-market stance and decided that consumers should pay for the project even if the pipeline is never completed or the gas becomes too expensive to market. An additional

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[1]Research Department, Citizen-Labor Energy Coalition, April, 1983

[2]Consumer Federation of America, Background Factsheet on Synthetic Fuels.

[3]Congressional Quarterly, May 29, 1982, p. 1250.

67 percent price increase may hit consumers if Congress accepts the President's proposal to deregulate natural gas.[1]

While the Federal government is enormously sensitive to the needs of natural gas investors, it turns a cold shoulder to low-income energy consumers. The President's 1984 funding request for the low-income energy assistance program, which helps poor people pay their heating bills, is 34 percent lower than the 1981 level, despite the fact that natural gas prices have risen 20-25 percent since then. Between one-third and one-half of the program's beneficiaries are elderly and disabled persons.[2]

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[1]Research Department, Citizen-Labor Energy Coalition.

[2]Center on Budget and Policy Priorities, "1982 Review Sheet".

I. Energy Industry Subsidies*

A. Nuclear

1. Research

The Federal government finances a large portion of the nuclear research (beyond national defense needs) used by the nuclear industry for profit-making activity.

1984 Nuclear Industry Subsidy: $0.57 billion

2. Price-Anderson Act

The Federal government sets a $560 million ceiling on government and industry liability for a nuclear accident. The nuclear industry is responsible for $160 million plus $5 million for each nuclear reactor that is licensed (this currently equals $360 million for the 72 licensed nuclear plants); the Federal government pays the remaining $40 million. This limitation on the financial responsibility of the nuclear industry for accidents, regardless of whether or not it is at fault, insulates the industry from the safety risks of nuclear power.

1984 Nuclear Industry Subsidy: Unknown.[a] The estimated costs of a nuclear accident range from several billion to several hundred billion dollars. The Three Mile Island cleanup will probably cost $1.0 billion.

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*Energy: Unless otherwise specified, all corporate subsidy figures are taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

[a]Price-Anderson: Keike Kehoe, Unavailable At Any Price, Environmental Policy Center, 1980; and conversations with House Interior and Insular Affairs, Oversight and Investigations Subcommittee staff.

3. Clinch River Breeder Reactor

The Clinch River Breeder Reactor, a 375 megawatt demonstration nuclear reactor designed to produce more plutonium than it consumes as fuel, was originally envisioned as a project whose costs were to be shared equally between the Federal government and the nuclear industry. In 1971, when the total construction costs were estimated at $500 million, the nuclear industry promised to contribute $247 million. In 1972, Congress agreed to pay all cost overruns. To date, Federal spending on the Clinch River Breeder Reactor has exceeded $1.6 billion, and the most conservative estimates set the cost of completion at $3.5 billion. The General Accounting Office's realistic estimate is $8.5 billion.

1984 Nuclear Industry Subsidy: $0.27 billion

B. Synthetic Fuels

The Synthetic Fuels Corporation, an independent Federal entity, may guarantee prices or loans and offer low-interest loans to private synthetic fuels projects that cannot obtain private financing. The Corporation, authorized to spend $20 billion between 1982 and 1984, intends to spend approximately $15 billion in the next 9 months.

1984 Energy Industry Subsidy: $13.5 billion[b]
(This cost may be spread over a number of years, depending on the loan default rate of the synthetic fuels projects.)

C. Oil

1. Oil Depletion Allowance

Independent oil companies may reduce their taxable income by 18% of gross income from oil wells in 1983, and by 15% in 1984 and thereafter.

1984 Oil Industry Tax Break: $1.51 billion[c]

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[b]Synthetic Fuels: Milton R. Benjamin, "Synfuels Corp. to Commit $15 Billion to Projects," Washington Post, April 2, 1983.

[c]Oil Depletion: For the source of all tax subsidies see Corporate Tax Breaks, p. 31 infra.

2. Expensing of Intangibles

Oil companies may deduct the entire amount of money spent for exploration and development in the year they spend it, instead of the normal tax law requirement that only a portion of investments may be deducted each year during their income producing years.

1984 Oil Industry Tax Break: $3.23 billion[d]

D. Gas

Alaska Natural Gas Pipeline

After banks and other private investors refused to finance construction of the Alaska gas pipeline, the Federal government required consumers to pay for completed portions of the project after 1987, even if no gas ever reaches them. Even with this consumer bailout, private lenders refuse to help finance construction of the pipeline.

If portions of the pipeline are finished but the entire project is never completed, or Alaska natural gas is too expensive to market, consumers will pay the oil companies up to $37 billion over 20 years, and get nothing in return.

1984 Energy Industry Subsidy: Unknown[e]

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[d]Oil, Expensing: For the source of all tax subsidies see Corporate Tax Breaks, p. 31 *infra*.

[e]Alaska Gas Pipeline: Committee on Energy and Commerce Report to the Chairman, November 3, 1981, at 14.

FOOD

The market for food products is anything but free. Even though there is competition among brand names for consumer loyalty, the production of food is insulated from the rigors of the market by government subsidies. Free market advocates who disdain food assistance programs for poor people should also oppose the Reagan Administration's agricultural policies.

Besides providing billions of dollars in loans to farmers at below-market interest rates, the government pays cash to agricultural producers. Last year, the Agriculture Department made direct payments of $3.4 billion to farmers[1] (this does not include the costs of the dairy, sugar or tobacco programs), a figure expected to rise to $5.1 billion in 1984.[2] Much of this money goes to large farmers who already benefit from tax breaks for investment in machinery and land that small farmers cannot afford. In 1981, less than 10 percent of farms sold over $100,000 worth of goods and received 45 percent of the direct payments; the 33 percent of farms with sales below $5,000 received only 3.5 percent of such payments.[3]

The Reagan Administration hopes to reduce agricultural outlays by giving farmers who leave their land fallow stockpiled commodities, rather than cash, to sell on the market. This Payment-In-Kind (PIK) program could backfire if farmers idle their least productive land and attempt to heighten yields on remaining acres. The combination of more reserve crops on the

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[1]Agriculture Department, "Economic Indicators of the Farm Sector."

[2]Appendix to Budget for FY 1984.

[3]Agriculture Department, "Economic Indicators of the Farm Sector."

market and relatively small production cuts could produce a commodities glut, lowering market prices and depressing farm income. Meanwhile, the government will lose money by turning over reserves (which are government assets) to the farmers, and by forfeiting outstanding Federal loans to farmers who have helped build the reserve. The Department of Agriculture estimates that in the short run, PIK will result in a $1.75 billion net loss to the government.[1]

Even as the Agriculture Department administers a maze of programs to reduce crop surpluses, the government also spends much on water projects designed to increase farm production. For example, the $368 million O'Neill Dam in Nebraska will cost taxpayers $4535 per acre to irrigate land worth $1000 per acre. The $1.3 million subsidy per farm will irrigate land primarily producing corn, even though the Agriculture Department has been trying to reduce corn supplies because of costly surpluses.[2] The $2.86 billion Central Arizona water project provides a $1.9 million subsidy to each benefitting farm. 73 percent of the irrigated land already produces crops eligible for price supports.[3]

While the government cannot decide whether farmers should produce more or less, the Reagan Administration is certain that there is not enough to go around for poor people. The Food Stamp program has lost $2 billion per year since President Reagan took

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[1] "Reagan's Surplus Crop Scheme Could Founder If Farmers Rush to Market", National Journal, March 5, 1983, p. 507.

[2] Rep. David Bonior, Congressional Record, December 14, 1982, p. H9746.

[3] Brent Blackwelder, Environmental Policy Center, testimony before House Budget Committee, March 13, 1981.

office. One million previously eligible recipients have been cut from the program, and benefits have been reduced for nearly twenty million others.[1] While the President claims to be cutting fat from the program, almost 80 percent of these savings has been achieved by cutting benefits for families whose gross income is below the poverty line.[2] It is doubtful that there can be much fat in a program that provides an average benefit of 45¢ per meal.[3]

To deflect attention from food program cuts, Congress and the Administration trumpet commodity giveaways. Yet the failure of commodity food assistance programs to provide adequate and balanced nutrition prompted the creation of the Food Stamp program in the first place. Emphasizing commodity assistance programs severely limits the nutritional choices for poor people, creating a disturbing scenario in which the fortunate eat what they choose, and the unfortunate eat what the government, or the commodities market, chooses.

The milk and cheese giveaways can be attributed more to bad dairy-pricing policy than government beneficence. The Federal government sets a floor price for dairy products that stimulates a surplus which the government is obligated to purchase. Milk prices are based on an outmoded concept of "parity" (the price of milk that gives dairy farmers the same purchasing power they had before World War II) which fails to account for productivity increases and changes in costs. The Congressional

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[1]Center on Budget and Policy Priorities, "1982 Review Sheet"

[2]Ibid.

[3]Elin Schoen, "Once Again, Hunger Troubles America," New York Times Magazine, January 2, 1983.

Budget Office estimates that the supply of milk in 1981 and 1982 was 10 percent higher than demand, costing taxpayers $2 billion per year.[1] In addition, the artificially high dairy price support forces consumers to pay as much as 30¢ a gallon above the market rate.[2]

Besides refusing to cut the fat from the dairy program, the Federal government last year gave a sweet deal to U.S. sugar producers. The world price for raw sugar is three times lower than the price for U.S. grown sugar, even after adjusting for transportation costs. Fearing foreign competition, U.S. sugar producers convinced Congress and the Administration to levy tariffs and fees on sugar from abroad. These import duties distort the domestic market considerably, making inefficient U.S. sugar cheaper than foreign sugar. This subsidy costs consumers $3 billion a year, and mostly benefits a few large domestic sugar producers.[3]

While Congress and the Administration take care of sugar growers and dairy producers, programs that help fulfill the nutritional needs of poor children have been neglected. Three million children no longer receive school lunches because funding for the program has been cut by $1 billion since 1981. The school breakfast program has been reduced by 20%, and 500,000 fewer children are participating.[4] Despite a rising

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[1]Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," February, 1983, p. 142.

[2]Brownsville Telegraph, June 17, 1982

[3]Nicholas Kominus, President, Cane Sugar Refiners Association, Business and Society Review, Winter, 1983, p. 14

[4]Center on Budget and Policy Priorities, "1982 Review Sheet"

infant mortality rate, the supplementary nutrition program for women, infants and children (WIC) has only enough funds to support 2.25 of the 9 million people eligible for its benefits. WIC costs $30 per beneficiary per month (the sugar program provides a monthly subsidy of about $18,000 to each sugar producer) to administer. The Harvard School of Public Health has found that each dollar invested in WIC saves three dollars in post-natal care.[1]

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[1] Food Research and Action Center, "Infant Deaths Go Up, While WIC Program Funds Stay Low," January 24, 1983.

II. Agricultural Industry Subsidies*

Farmers are protected from marketplace risks by a variety of Federal subsidy programs. The government uses price support programs--making direct payments to farmers, purchasing commodities, lending money based on target prices, and controlling supply through marketing orders and acreage allotments--to guarantee farmers a minimum return on their investment.

A. Direct Payments

The government reduces farmers' investment risks by giving them cash during years when their crops sell for relatively low prices on the market.

B. Commodity Purchase

Rather than allow agricultural supply and consumer demand to determine the market price of farm commodities, the government purchases enough goods to push up their market price to a predetermined minimum level.

C. Target Prices

The government guarantees farmers a minimum price for the production of commodities through nonrecourse loans. These loans are based on a projected reasonable price for the goods (target price). If the market price exceeds the target price, farmers can sell their goods at a profit on the market and repay the loan. If the target price exceeds the market price, farmers can keep the government's money (default on their loans), earn a profit, and let the government keep the produce.

D. Marketing Orders

The Department of Agriculture allows many farmers and the distributors of their produce to coordinate the regional marketing of goods to consumers. Rather than permit competition to regulate the distribution and price of goods, marketing orders control the quantities, uses, and prices of goods through the regulation of distribution. This regulation pushes the price of goods to consumers above the market level.

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*Agricultural: Unless otherwise specified, all corporate subsidy figures are taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

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[1]Food Research and Action Center, "Infant Deaths Go Up, While WIC Program Funds Stay Low," January 24, 1983.

II. Agricultural Industry Subsidies*

Farmers are protected from marketplace risks by a variety of Federal subsidy programs. The government uses price support programs--making direct payments to farmers, purchasing commodities, lending money based on target prices, and controlling supply through marketing orders and acreage allotments--to guarantee farmers a minimum return on their investment.

A. Direct Payments

The government reduces farmers' investment risks by giving them cash during years when their crops sell for relatively low prices on the market.

B. Commodity Purchase

Rather than allow agricultural supply and consumer demand to determine the market price of farm commodities, the government purchases enough goods to push up their market price to a predetermined minimum level.

C. Target Prices

The government guarantees farmers a minimum price for the production of commodities through nonrecourse loans. These loans are based on a projected reasonable price for the goods (target price). If the market price exceeds the target price, farmers can sell their goods at a profit on the market and repay the loan. If the target price exceeds the market price, farmers can keep the government's money (default on their loans), earn a profit, and let the government keep the produce.

D. Marketing Orders

The Department of Agriculture allows many farmers and the distributors of their produce to coordinate the regional marketing of goods to consumers. Rather than permit competition to regulate the distribution and price of goods, marketing orders control the quantities, uses, and prices of goods through the regulation of distribution. This regulation pushes the price of goods to consumers above the market level.

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*Agricultural: Unless otherwise specified, all corporate subsidy figures are taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

E. Acreage Allotments

The government pushes up the market price of many commodities by limiting crop planting to a specific number of acres.

1984 Agricultural Industry Subsidy: $6.40 billion

III. Corporate Water Subsidies*

The Federal government finances the construction of water diversion projects--dams and reservoirs--and offers 50 year interest-free loans for field irrigation.

1984 Agricultural Industry Subsidy: $0.82 billion

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*Water: Unless otherwise specified, all corporate subsidy figures are taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

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TAX

President Reagan urges individuals to rely less on government and more on themselves, but he sends a different message to corporate America. The President has made corporate well-being dependent upon Federal tax breaks rather than wise investment. His Administration simultaneously returns billions of tax dollars to corporations for capital investment and cuts funding for human investment programs such as education and job training.

President Reagan has thrown 360,000 families off the welfare rolls and reduced benefits for 260,000 others, all in the name of self-sufficiency.[1] Yet his fondness for the work ethic conflicts with his coddling of unearned income. Americans pay up to 50 percent in taxes--as well as an additional 6.7 percent Social Security tax--on money they earn while working. The Reagan tax program drops the maximum tax rate corporations, stockholders and other investors pay on income from the sale of stocks, bonds, property and other assets from 28 percent to 20 percent. The President hoped this reduction would spur productive investment and reduce the use of tax shelters, but reality has not been so kind. In the first year after the Reagan tax cut, tax shelters proliferated,[2] while investment fell by about 20 percent.[3]

President Reagan derides "make-work" programs, but has no trouble with taxpayer support of "make-capital" programs. The

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[1]Center on Budget Policy Priorities , "1982 Review Sheet."

[2]Internal Revenue Service Examination Service. Tax shelter examinations jumped 20 percent last year, even though the standards the IRS uses to select returns for investigation do not change from year to year.

[3]Bureau of Economic Analysis, U.S. Department of Commerce.

investment tax credit, for example, forces taxpayers to pay for 10 percent of every machine business buys, regardless of whether it is a sound investment. The investment incentive provided by the credit is expected to create jobs, though taxpayers foot the bill for 10 percent of the machine even if it is built with foreign parts and labor, or is a labor-displacing device.

Once the machine is purchased, the government's generosity swells. The real asset value of the machine declines slowly over time, so a portion of the machine's worth is subtracted each year, in the corporation's ledgers,to reflect this gradual depreciation. The corporation is careful not to write off too much too soon so as not to understate its net worth, and thereby discourage purchase of its stock. For tax purposes, however, the machine can be written off much faster than it actually wears out, reducing the corporation's tax burden by understating the machine's value. This extra pool of capital that does not go to the Treasury can be used for further investment, bringing another 10 percent investment tax credit and more accelerated write-offs. President Reagan promised that expanded investment and new employment would result from these tax breaks, but what actually has materialized is high unemployment and lower investment. Even though the country has nothing to show for it, business has gained plenty from these tax breaks. Since President Reagan took office, the portion of federal taxes paid by corporations has been cut in half,[1] and it is estimated that by 1986, corporations will be paying no taxes on new

[1]Office of Management and Budget.

equipment.

Besides subsidizing new machinery purchased by business, taxpayers are also shouldering a substantial burden of corporate research and development costs. The Reagan Administration has cut public money to help educate American students at the same time it increases public money for R & D that produces private profit. Before the President took office, corporations could deduct the entire cost of equipment used in a multi-year research program in the year it was purchased. They can still do that, and in addition, the President's 1981 tax program permits them to use 25 percent of R & D equipment costs to reduce taxes on other income. As a result, for each dollar business invests in new R & D equipment, the government gives it $1.25 in tax breaks. Despite this giveaway, corporate R & D expenditures are growing at a much slower rate now than in the late 1970's.[1]

While the President is always quick to criticize human needs programs, he manages to overlook the feeble performance of corporate tax incentives. In 1962, when the investment tax credit was enacted, productivity growth was about 3.3 percent annually. It has declined steadily since then, and dropped by more than half in the first year of the Reagan tax program, from 1.0 percent to 0.4 percent. After 1971, when accelerated depreciation was enacted and the investment tax credit expanded--

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[1]National Science Foundation, Science Resources Studies Highlights, September 9, 1982.

cutting effective corporate tax rates by about 30 percent[1]--economic growth declined. In addition, the Federal Reserve Board found that the quality of investment worsened during the 1970's because of the market distortions created by these "incentives."[2]

The President's program fails to address workers' needs in a rapidly changing economic environment. As pointed by C. Jackson Grayson, chairman of the American Productivity Center:

> Concentration on capital investment has led to the relative neglect of "other factors" important for growth--management, quality, technology, knowledge, employee involvement, process improvement, training and labor-management cooperation.[3]

In an economy increasingly driven by fast-paced technological advancement, economic productivity is dependent upon a flexible and well-trained workforce. Workers must be educated to understand new computerized machinery, use it efficiently on the job, and enhance a mechanized process with quality human labor. Replacing corporate tax breaks with a public education and training program that prepares future, current, and displaced workers for growth- and modernizing-industry jobs would assure economic recovery without expanding the Federal deficit.

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[1]Citizens for Tax Justice, "The Reagan Tax Proposals," March 19, 1981, p. 18.

[2]Federal Reserve Board, "Public Policy and Capital Formation," 1981.

[3]"Emphasizing Capital Investment Is a 'Mistake,'" C. Jackson Grayson, Wall Street Journal, October 11, 1982.

Increased worker productivity would open the door to the high-quality investment needed to spur economic recovery. C. Jackson Grayson notes that:

> [p]eople confuse the volume of investment with the productivity of investment...high investment is the result, rather than the cause, of productivity growth.[1]

Ignoring significant gains in educational opportunities, living standards, and nutrition levels, President Reagan has told minorities and the poor that they would have been better off without the Great Society social programs. Our present economic quagmire painfully reveals that we would all be better off had the President checked the past performance of corporate tax breaks before he expanded them.

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[1] "Emphasizing Capital Investment Is a 'Mistake,'" C. Jackson Grayson, Wall Street Journal, October 11, 1982.

IV. Corporate Tax Breaks*

A. Corporate Tax Breaks for Machinery and Plant (Incentives for Capital Intensive Business Investment)

1. Corporate Capital Gains

Sixty percent of the corporate profit earned from the sale of corporate stock or bonds is exempt from Federal income tax. This money, along with the $13.4 billion individuals will save in 1984 in tax liability from capital gains tax breaks for individuals, serves as the financial foundation for corporate investment in expensive, labor saving machinery.

1984 Corporate Tax Break: $1.90 billion

2. Investment Tax Credit

When a corporation buys a machine, the Federal government pays for ten percent of its price by giving the corporation a ten percent reduction in tax liability.

1984 Corporate Tax Break: $23.02 billion

3. Expensing of R & D Expenditures

Corporations may immediately deduct the entire amount of money they spend on research and development. The tax laws usually require taxpayers to spread the value of their investment over its income-producing life, deducting only a portion of the investment each year.

1984 Corporate Tax Break: $2.37 billion

4. Accelerated Depreciation

Corporations may deduct more than one dollar for each dollar spent on new plant and equipment.

1984 Corporate Tax Break: $16.08 billion (Not including leasing)

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*Tax: Unless otherwise specified, all corporate tax break figures are taken from Change in Fiscal Year Receipts Resulting from the Economic Recovery Tax Act of 1981 by Source, Office of Tax Analysis, U.S. Dept. of Treasury, January 17, 1983, as adjusted by the Tax Equity and Fiscal Responsibility Act of 1982.

5. Tax Leasing

If corporations owe no Federal income tax, they may still sell their accelerated depreciation deductions (see Accelerated Depreciation, supra.) to corporations that can use them to reduce their Federal income tax. The sale must follow a specified form, even if the substance of the transaction has no relation to the form.

1984 Corporate Tax Break: $2.42 billion

6. R & D Credit

If a corporation spends more money on research and development than it has in the past, the Federal government will pay 25 percent of the difference between the amount spent this year and the average spent during the last three years.

1984 Corporate Tax Break: $0.70 billion

B. General Corporate Tax Breaks

1. Domestic International Sales Corporation (DISC)

Multinational corporations that set up paper subsidiaries (called "domestic international sales corporations") through which they sell goods abroad, may indefinitely defer payment of their taxes owed from a portion of these sales.

1984 Corporate Tax Break: $1.49 billion

2. Deferral

Multinational corporations are exempt from paying United States taxes on their foreign income if they reinvest that income abroad.

1984 Corporate Tax Break: $0.61 billion

3. Possessions Tax Credit

Corporations that own plants in United States possessions may reduce their Federal income tax, dollar for dollar, by the amount of tax attributable to these plants.

1984 Corporate Tax Break: $0.95 billion

4. Foreign Earned Income Exclusion

Americans living abroad are exempt from paying United States income tax on much of their income. Multinational corporations may pay their American employees abroad less than foreign employees, without reducing their take-home, after tax income.

1984 Corporate Tax Break: $2.03 billion

5. Business Meals and Entertainment Deduction

The Federal government pays part of the cost of meals and entertainment for business people who discuss business during meals and other social activity.

1984 Corporate Tax Break: $2.0 billion (Estimate of the Treasury Department)

6. Depletion Allowance for Non-Oil Industries

All mining and extractive industries may reduce their taxable income by a certain percentage of their gross income. The percentage varies from five percent for sand, stone and gravel to 22 percent for asbestos and bauxite, and other minerals.

1984 Corporate Tax Break: $0.94 billion

7. Corporate Capital Gains: Animals and Minerals

Sixty percent of the corporate profit earned from the sale of timber, coal, and iron ore royalties is exempt from Federal income tax. Also exempt is sixty percent of the corporate profit earned from the sale of cattle, hogs, horses, mules, sheep, goats and donkeys. Yet the profitable sale of chickens, turkeys, pigeons, geese, other birds, fish, frogs and reptiles is fully taxable.

1984 Corporate Tax Break: $0.59 billion

TRANSPORTATION

The transportation industry has consistently sought Federal financial aid since the late 19th century, and Uncle Sam has always been lavish. Government nurtured the growth of the railroad, trucking and airline industries, and today, coddles the commercial shipping industry.

The shipping industry benefits from "Buy America" laws which force government personnel and goods to travel on domestic carriers, even if foreign vessels are cheaper.[1] Labor, construction and insurance subsidies for the shipping industry are provided by the Maritime Administration. Also, the Reagan Administration hopes to exempt the industry from the antitrust laws, enabling shipping company executives to fix prices, pool profits and restrict competition. One estimate indicates the exemption could cost consumers $3 billion annually.[2]

The government's generosity is not limited to the high seas. Taxpayers will spend $3 billion to dig a 200 mile ditch--the Tennessee-Tombigbee Waterway--which most private barge owners do not want or need. After all, they already have the Mississippi River nearby.

While the Federal government builds an unwanted waterway for barge owners and seeks to reduce shipping industry competition, it abandons mass transit, which neither the free market nor financially-strapped local governments can support. The Reagan Administration wants to limit 1984 Federal operating assistance for mass transit to $275 million, less than a third of what Congress authorized. This would reduce the budget authority

[1] See 41 U.S.C., Section 10(a)and (b).

[2] Sen. Howard Metzenbaum, Congressional Record, March 1, 1983, p.S1818.

for mass transit by 10 percent from last year.[1] Moreover, the President proposed funding one-third of the mass transit program from the regressive gasoline sales tax, which eats up a larger portion of poor than rich peoples' income. Thus, low and middle income people must bear a disproportionate share of mass transit costs.

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[1]Washington Post, February 18, 1983, p. A15.

V. Corporate Shipping Subsidies*

A. Maritime Administration

The commercial shipping industry is insulated from the normal risks, labor expenses, and competition for capital in the marketplace by the Federal government. Taxpayers' money flows through the Maritime Administration to finance the education and training of personnel for commercial vessels, insure the repayment of shipowners' loans, and subsidize the construction and operation of commercial vessels.

1984 Shippers' Subsidy: $0.40 billion

B. Tennessee-Tombigbee Waterway

The Tennessee-Tombigbee Waterway, like federal water projects, is designed to subsidize the transportation of commercial goods and provide cheap water for industrial usage.

1984 Corporate Subsidy: $0.10 billion

C. Cargo Preference

Even if foreign transport vessels are cheaper than American ships, all government personnel must travel in American vessels when conducting official business. Also, 50 percent of the cargo bought, furnished or financed by the United States Government must be shipped on American vessels, regardless of cost. The average cost of shipping goods in American vessels is $59 per ton higher than in foreign ships.

1984 Shippers' Subsidy: Unknown. For the "Food For Peace" program alone, the cargo preference costs taxpayers an extra $90 to $100 million in shipping costs.

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*Shipping: Unless otherwise specified, all corporate subsidy figures are taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

[a]from a telephone conversation with Jim O'Mara, Agriculture Committee professional staff member on international trade, U.S. House of Representatives.

VI. Miscellaneous Corporate Subsidies

A. The Export-Import Bank[a]

The Federal government subsidizes American exports by offering low-interest or guaranteed loans to foreign purchasers of high-cost American goods. Recently, these subsidies have been used to increase the exports of the American nuclear industry.

1984 Low-Interest Loans:	$3.8 billion
1984 Guaranteed Loans:	$10.0 billion
1984 Corporate Subsidy:	$0.70 billion

B. Mineral Leasing

Corporations that extract minerals from land owned by the general public are required to pay royalties, bonuses and taxes on the profits they make from these minerals. The Department of Interior is authorized to offer leases on a competitive basis, but seldom charges corporations more than a 16 and 2/3 percent royalty rate. Between 1953 and 1981, the oil and gas industry paid the Federal government 61 percent of the market value of the oil and gas it extracted from the outer continental shelf. In comparison, the average rate of corporate repayment for publicly owned offshore minerals in other Western nations is:

United Kingdom	80-92 percent
Denmark:	84 percent
Norway:	85 percent

Numerous states also charge corporations more for extracting publicly owned minerals, with no noticeable loss of business interest in leasing these minerals. If the Federal government had charged a combined royalty, bonus and tax rate of between 80 and 90 percent from 1953 to 1981, it would have reduced the Federal deficit by $17 to $26 billion from outer continental shelf oil and gas leases alone.

1984 Corporate Subsidy: Unknown[b]

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[a]Bank: taken from President Reagan's Budget of the United States Government Fiscal Year 1984, Special Analyses.

[b]Mineral Leasing: Royalties: A Report on Federal and Indian Mineral Revenues for 1981, U.S. Department of Interior, 1982; and "U.S. Government Receipts from Minerals, Projections of Future Receipts, and Comparisons of U.S. Receipts with Those of Other Governments," William H. Hymes, Congressional Research Service, March 3, 1982.

C. TRIS[c]

Pajama-makers who used the cancer-causing chemical TRIS as a flame retardant in childrens' sleepwear will be compensated by the Federal government for the production and storage costs of their unsold stock of TRIS-treated pajamas. The Federal government banned the domestic sale of TRIS-treated sleepwear in 1977, and export of these pajamas in 1978.

1984 Pajama-Makers' Subsidy: $0.06 billion

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[c]TRIS: Congressional Budget Office cost estimate, in Report to Accompany S. 823, Report No. 97-130, 1981, at 11.

8/2/72

The Great Train Robbery

By Ralph Nader

Washington—The corporate welfare system moved into high gear at the Congress last week as the railroads and trucking companies began pushing for passage of their authored bill, S.2362, known as the "Surface Transportation Act of 1972." This legislation would provide $5 billion in financial assistance, easier railroad abandonment of lines, less competition, less corporate property and income taxes, and other props to hold up mismanaged transportation monopolies. It is being heavily lobbied by former Sen. George Smathers of Florida, who now represents the American Association of Railroads.

Having balked at the Lockheed loan guarantee last year before approving it, the Congress is grumbling over this latest raid on the taxpayer by corporations who want the benefits of government privilege without the risks of private enterprise. Many conservative and liberal members of both parties in Congress are wondering how many billions of dollars in direct and indirect government and consumer subsidies will this burgeoning giveaway drive cost.

Big companies don't go bankrupt anymore; they just go to Washington.

One provision in S.2362 gives to the Secretary of the Treasury virtually uncontrolled discretion to extend up to $5 billion in "loans" of possibly indefinite duration to railroads, trucking companies and barges. The tricky definition of the word "loan" includes "any extension of financial assistance, by loan or otherwise. . . ." There are no stated criteria for granting such subsidies to insure that the public receives improved service, higher productivity or other benefits. There are no requirements in case of non-repayment, if indeed the bill's vagueness about a supposed 15-year term requires any repayment at all. This proposal follows other loan guarantees and tax breaks for many of these carriers in past years which have not resulted in improved service.

The corporate beneficiaries of these added subsidies are transportation companies or subsidiaries of conglomerate parent corporations who already have the privileges of legal price fixing via formal cartels called rate bureaus. Furthermore, they are shielded from competition by federal regulatory agencies. Their conglomerate parent companies, especially in the railroad areas, are no longer interested in transporting passengers and servicing smaller shippers and farmers. What they are interested in doing is siphoning off capital from traditional railroad operations into land speculation, mining, financial activities and other investments.

The New Republic Feature Syndicate

Chairman KASICH. Without objection.

Mr. NADER. The subject of corporate welfare is one that raises many, many questions of market distortions, of elementary fairness, of misallocation of public budgets, of environmental damage, and of the suppression of the rights of small business compared to large corporations that are more adept at feeding at the trough here in Washington.

The looting of Uncle Sam, namely, the taxpayers, Mr. Chairman, is an ever-growing big business. And it is a big business that is largely secret, without procedural due process, without the usual safeguards that any ordinary business would establish for itself.

If we are to take a working definition of corporate welfare, the concept of programs involving the government giving more to private companies than it gets back, that is, where it is engaging in a transaction that cannot be justified as a fair market value exchange, then the goal is not necessarily to eliminate all corporate welfare programs, although many certainly need elimination, but to subject them to procedural, substantive, and regular review safeguards.

What are we talking about here in terms of corporate welfare? Well, I have here in my testimony a number of categories which will illustrate part but not the entire field because it is so vast. Even 20 years ago, Mr. Chairman, there was a report from the Congress that indicated over 120 Federal subsidy programs alone, and since then there has been a burgeoning both in degree and kind of these corporate welfare projects and programs.

The first category deals with giveaways, and these are, of course, completely antithetical to the way any prudent operation would use its assets. No business gives away its assets. No trade union gives away its assets. No agricultural cooperative gives away its assets. But the U.S. Government is in the practice of giving away taxpayer assets, natural resource assets, research and development assets and many other assets such as the public airways without getting anything in return, without requiring any conditions for the transfer of these valuable assets.

I might add that the estimates of corporate welfare at the local, State and Federal Government arenas is hundreds of billions of dollars year—that is with a B—hundreds of billions of dollars a year.

The government retains its property in such things as oil and mineral riches, forests, thousands of buildings and plants, public works, the public airways over which television and radio stations transmit their programs. The government retains its property as the sheer commonwealth of the people of the United States, and when a reasoned decision is made to distribute some of this wealth to private companies, the government should explore whether it can distribute these public assets in a nonexclusive public-purpose way or in a way that promotes competition.

When public assets are going to be distributed to private interests, there should be a strong presumption that the government should receive a market rate purchase or lease price.

Now, let us look at an example. There is a recent digital spectrum giveaway. The Federal Communications Commission estimates its value is up to $70 billion, a figure that Bob Dole has used

when he criticized this giveaway. The National Association of Broadcasters has trumped its critics, including its competitors, in getting this to its members free of charge. The broadcasters pay nothing to the public for the right to air programming over the public airways.

The public is the landlord and the broadcasters are the tenant, and the tenant pays no rent and keeps the public off its own property for 24 hours a day in radio and television stations all over the country. There is no audience network. There are no cable channels for civic activity or for labor or students or anything like that.

At the same time the broadcasters use the influence they gain over political representatives from their use of these public resources to extort still greater subsidies. And all the while, they don't allow this subject to be covered on their news programs. Has anybody seen the evening news of the networks talk about the great digital spectrum giveaway? No way.

The opportunity reemerges in an effort to define the broadcasters' public interest obligation, and that is what we have to consider. Should the public airways be leased for a fair market exchange or should they be given away? And should the owners of the public airways have some of the time for their own broadcasting rights? As the Supreme Court put it in the Red Lion case, the first amendment rights of the audience of radio and TV stations are superior to the first amendment rights of the broadcasters, something we often are allowed to forget.

Another giveaway is the 1872 Mining Act. This is a notoriously obsolete law that allows any company, domestic or foreign, to go on public lands should they discover hard rock minerals, like gold or molybdenum. They can go to the Department of Interior and for $5 an acre or less buy the land above the mine, mine the mine to exhaustion, keep all the revenues, with no royalties back to the U.S. Government, and little care for the environment.

As a matter of fact, we checked some Third World countries, Mr. Chairman. They drive a harder bargain for their raw materials with U.S. corporations than our own government does. An example of this is that a Canadian gold mining company discovered $9 billion of gold in Nevada on Federal lands a few years ago, marked it out, went to the Department of Interior and bought the entire area covering that mine for $30,000. $30,000 investment, $9 billion in gold, no royalties back to the government. There is no business in its right mind that would operate in that fashion.

There are also the Internet giveaways which are increasingly visible today. A giveaway of public assets involves the management of the U.S. Government's Internet assets. The current contract goes to Network Solutions. NSI turned a tiny initial investment into a firm with a market capitalization of $2.5 billion thanks to the control of the power to sell the public the right to use their own domain names. It is just a clerical situation. It is as if the U.S. Trademark office was transferred to a private company to operate for private purposes.

A domain name now costs $18 for 2 years. We have been advised by other companies they could do it for 50 cents and still make a significant profit.

Government research and development is a little more complex issue, Mr. Chairman. It is clear that without government research and development, the telecommunications industry today, the aerospace industry, the agribusiness industry, the computer industry, the biotech industry, the pesticide industry, the pharmaceutical industry, the atomic power industry, the satellite industry and some of the construction housing industry would not be the same as they are today.

Indeed, many of these government research and development dollars were invested in activities that the companies themselves did not choose to risk their capital in investing. Instead, they launched a variety of programs from the Pentagon, from NASA, from the National Institutes of Health, et cetera, and it is important when these companies tout their enterprise initiative that we also say that a good deal of their success is due to taxpayers' initiatives or taxpayers' enterprise under these government R&D programs.

But since the early 1980's especially, the government has routinely given away the fruits of the research it sponsors, granting private corporations exclusive royalty-free rights to commercialize government-financed inventions, while failing to include or enforce any reasonable pricing requirements and the like.

Now, when it comes to an anticancer drug like Taxol, Mr. Chairman, the National Cancer Institute said a few years ago that $31 million of taxpayer money went into the synthesis of the yew tree out of Oregon and Washington State all the way through the human clinical trials to develop this important drug. Under government policy, the government, in effect, gave monopoly marketing power to Bristol-Myers Squibb to sell this drug.

Selling an anticancer drug does not require great marketing genius, by the way. Bristol-Myers Squibb is earning revenues from Taxol of $1 billion a year. There are no royalties back to NIH to recycle into more research and development in the health sciences, and there is no reasonable pricing.

A few months ago, a woman with ovarian cancer wrote us. She had to leave her $19,000-a-year job. She went to the doctor. He said this was a very serious case. All he could recommend was Taxol, and it was $2,000 a shot from Bristol-Myers, basically close to $14,000 for the series of treatments that she needed out of a drug that the taxpayer developed right through the human clinical trial.

I don't think that is fair. I don't think that is right for the patient, for the taxpayer. If she has to go on Medicaid to pay for this drug, the taxpayer pays from the other end as well.

In a little known activity in the Department of Defense over at Walter Reed Army Institute of Research, there is what the generals and the admirals call the government's little drug company. The government's little drug company has been engaging in first-class science with incredible efficiencies in developing antimalarial drugs and other drugs that the pharmaceutical industry doesn't want to put any money into because they don't see much profits in it. Malaria kills 2.5 million people a year, including 1 million children in Africa; and there is very little private medical research investment.

Walter Reed has a policy, after they develop the drugs—which by the way cost about $5 million a year a drug, not counting salaries—they give it away to a company.

Recently, the government scientists developed a hepatitis drug, and in a ceremony, the happy company that received the exclusive rights gave the military officials there a plaque in appreciation. A plaque! So whether it is only 1 percent royalties or a plaque, that is about all the return the taxpayer gets, not to mention the gouging prices for consumers.

The Partnership for a New Generation of Vehicles needs to be given some attention. This is Mr. Gore and Mr. Clinton's initiative started in August 1993. They joined with GM, Ford, and Chrysler to produce what is allegedly going to be a clean-engine car. Six years later, there is almost nothing to show for this. Why is the U.S. Government using a billion dollars of tax money to subsidize three companies that have been reporting record profits year after year and should be investing in this technology on their own? And it isn't just the waste of taxpayer money, Mr. Chairman. It is a de facto exemption from the antitrust laws that seems especially unwise given the history of the auto companies colluding, to restrain the development and marketing of pollution control systems. A Justice Department case on this matter resulted in a consent decree under the Nixon administration, and I wish to introduce the material in the record to substantiate that.

Given that record, do we really want to impede competition for this kind of innovation? It is interesting as the Washington Times reported on Saturday—and I submit that article for the record—that the two companies that are going to come forward next year with the most fuel-efficient cars by far are Toyota and Honda. They are not part of this joint government-business partnership for a clean car. They are part of a more competitive arena which is why they are ahead of the domestic U.S. industry, unfortunately.

We come now to bailouts. Everybody in Congress is familiar with the periodic demand by industry for bailouts, the largest one being the S&L bailout due to speculation, outright criminal behavior or mismanagement in the late 1980's and early 1990's. It will cost the taxpayer over the next 20, 30 years, $500 billion in principal and interest.

Bailouts are different from other corporate welfare categories in that they are ad hoc and unplanned. There is no ongoing government bailout program to be canceled or reformed, but there are lessons to be learned, and first is the issue of payback.

The question is simple. Once the S&Ls got on their feet after the bailout and they started making money, why shouldn't they pay the taxpayer back for the bailout? And in addition, why shouldn't systems be in place so that there is never again this kind of rampant speculation which is caught only too late by lackadaisical government agencies at the State and Federal level—which in turn has to lead to a huge bailout and a distortion of both market and budgetary priorities?

The danger of creating too-big-to-fail institutions should make corporate welfare opponents advocates of a strong antitrust policy and supporters of existing restraints on the concentration of economic power. H.R. 10, which is about to come before the House of

Representatives, is a bill that is going to facilitate the combinations of giant banks, giant insurance companies, and giant brokerage houses; and this means that there are going to be more of these joint firms on the too-big-to-fail list of the U.S. Government, and that means the U.S. taxpayer. And yet the Federal Deposit Insurance Corporation has stopped assessing these profitable banks for the rainy days ahead. It only has $32 billion on hand to cover all contingencies for 9,000 commercial banks with nearly $3 trillion in deposits.

Now Citicorp itself has assets of over $350 billion, and we know big banks can get into big trouble indeed. So, why is the Federal Government in effect saying to the banks, "Well, you don't have to be assessed anymore for your insurance fund because the taxpayer is always going to be ready to bail you out once this relatively trivial amount of FDIC resources is exhausted should there be one or two major bank failures?"

There is also corporate tax expenditures. Now, this is where there is some debate between opponents of corporate welfare; but in our view, Federal corporate tax expenditures are the back door to corporate welfare. They are very invisible. Once they get installed, they don't have to be annually reviewed by the Appropriations Committees of Congress. They just go on and on and on.

These corporate tax expenditures are not uniform tax cuts. They are selective tax preferences for particular business interests, usually large businesses, not small businesses, as you pointed out in your introductory statement. The crusade against corporate welfare cannot exclude corporate tax expenditures anymore than it can exclude direct government subsidies to corporations.

As many scholars have pointed out, the tax expenditure is equivalent to a Treasury check to the preferred corporation or industry. Here is how it works: In the late 1970's in a very obscure provision in one of the tax bills, $10 billion of taxes on deferred export earnings by McDonald Douglas, Boeing, General Electric and others was wiped off the book. I suppose a lot of small taxpayers would like their debt wiped off the book to Uncle Sam, but they are not big enough to have that kind of influence.

Imagine about $10 billion, this is a so-called "DISC" program, wiped off the book with almost no public attention because of the obscure way it was done. Corporate debt cancellation buried in 500- or 600-page bills is a routine performance on Capitol Hill.

In 1986, there was another tax preference in one of the giant 1,500-page bills. Almost nobody understood it. It took the Washington Post months to discover it. That gave Ford and General Motors $1.5 billion tax break, and more recently, eight billion out of $11 billion that the electric utilities owe to Uncle Sam was removed and canceled as well. I am sure a lot of small businesses would like to have that kind of power on Capitol Hill, but they don't.

OMB should be required to compile a list of the top 50 beneficiaries of each corporate tax expenditure. And to ensure these expenditures are disclosed and receive congressional scrutiny in some setting, these and other disclosures that are recommended in my testimony should all be put on the Internet.

By the way, Mr. Chairman, do you know who invented the Internet? It wasn't Al Gore. It was the Pentagon. The Pentagon in-

vented the Internet to communicate on military research between universities, contractors and itself. Once again, we see the taxpayer risk often is in advance of the market willing to take risks to develop these kinds of breakthroughs.

Insurance schemes. The International Monetary Fund and the Enhanced Stabilization Fund in the Treasury are typical examples of corporate welfare, albeit indirect. Corporate globalization leads to interdependence. Nobody denies that. But it also leads to Uncle Sam being the global guarantor of some of the worst regimes and their mismanaged economic policies and the speculation in these countries.

It started with Mexico. It extended to countries in East Asia. It has moved to Brazil. It went to Russia where billions of IMF dollars disappeared without a trace as that country wallows in the criminal capitalism which replaced its criminal communism.

The IMF and the ESF infuse money into debtor country economies which then goes right back out to pay foreign creditors, often our own large banks and other money centers in the U.S. What is interesting about the IMF and the ESF—and this is extremely important for Congress—is that these decisions are made without congressional authority often. They are made without congressional hearings. They are made without congressional review. They are made by executive branch officials with unbridled discretion and with the utmost secrecy.

If you ask yourselves procedurally how was the $50 million bailout made to Mexico, it was not made with anything that Congress was involved in. It is one of the most egregious upsetting of the separation of powers and the balance of powers in our Federal system.

I should also mention the nuclear insurance.

Chairman KASICH. So I would put you down as opposed to that?

Mr. NADER. Yes. In fact, this is an area that might be called meta-law. When you consider that a package of that size could be developed by the Treasury Department, the Federal Reserve, and the IMF, and Congress is completely kept out of it, I think that is an example of why procedural safeguards need to be right up at the top of the list in any analysis in Congress of corporate welfare. These procedural safeguards are constitutional safeguards.

The nuclear industry could never pass the private insurance market test. Whenever an industry has a product that cannot meet a private insurance market test, the yellow flags go up. Why doesn't the insurance company want to insure this product or this industry? And so the Price Anderson Act was passed by Congress in the 1950's, in effect, to subsidize in a huge way the nuclear power industry and to cap the liability of the industry at a ridiculous tiny fraction of the level of what a nuclear accident would damage around a nuclear facility.

In fact, the Atomic Energy Commission put out an estimate in the early 1960's that said that if there's a nuclear power accident, a class nine accident, it would contaminate an area the size of Pennsylvania. This was a regulatory agency, you know, that was the big booster of the nuclear industry.

If an industry which has benefited, as the nuclear industry has, from massive government research and development and other sub-

sidies for more than 4 decades and which creates staggering environmental waste disposal programs yet to be resolved, as well as other risks, if it cannot survive without government support, then it should not survive.

The over $100 billion that has gone into the nuclear industry, and some estimates are triple that, over the years could have been put into energy efficiency technology. This would have been a much more rational, economic decision for millions of consumers and taxpayers who are now burdened by the nuclear power risk situation.

Government-sponsored enterprises. These are GSEs, and it is interesting that many people in Congress who are against government involvement in business never speak out against Fannie Mae, Freddie Mac and others. In fact, they are terrified of Fannie Mae. I mentioned recently to the CEO of Fannie Mae, I don't know any other company that produces such fear as Fannie Mae on Capitol Hill. Perhaps it is because they hire so many former government officials and put them on their payroll to influence the situation.

According to the Congressional Budget Office, for every $2 delivered to homeowners due to the government subsidies of the GSEs (which was $6.5 billion in 1995, according to CBO), Fannie and Freddie Mac, take $1 of that subsidy for themselves. That is for executive salaries, for their shareholders, et cetera.

There has been very little review or oversight of Fannie Mae and Freddie Mac, and there are some companies who believe that they represent unfair competition to other companies who think they can do as good or better a job.

Now, there are some people who say they are not going to be able to do as good or better job in the housing finance area, but we will never know unless they are able to try on a level playing field. The questions for Congress: Could GSEs improve access to mortgages by home buyers without a government subsidy? Could private corporations without government corporate welfare perform the same function?

The executive compensation issue is also pretty egregious. Let me ask you this. You are working for the Federal Government as Members of Congress. They pay you about $136,000 plus benefits, et cetera. Jamie Gorelick worked for the Justice Department. She got about $125,000 as a high Justice Department official.

She leaves the government, and in 1997 moves over to Fannie Mae as vice-chair with no experience in housing finance. She is paid $1,850,000 in salary, bonuses and stock options during the last 8 months of that year. Now, should a government subsidize a corporation that pays its executives at those stratospheric levels, including a former CEO of Fannie Mae who went away with a $20 million severance package, not to mention the $5 million that the more recently resigned CEO Jim Johnson received in 1 year? That is something that is quite important to pay attention to.

I want to devote a few comments to State and local corporate welfare. And right in your home State, Mr. Chairman, there is a perfect example of what you are pointing out today in your prefatory remarks, and it is in Toledo, Ohio. Chrysler has been in Toledo for many years. The workers are very productive. The Jeep is produced there and sold at a good profit. Chrysler decided to expand the Jeep plant.

They went to Toledo's city government, which is financially strapped, and arranged with the city government for a $300 million Federal, State, and local subsidy package. Part of that involves taking over land where there are 85 homes in a stable neighborhood and several small businesses. We have been out to Toledo several times, Mr. Chairman, and we have seen the maps; and for the 300-acre parcel for that plant, the only use for that devastated neighborhood, which is being plowed under now by bulldozers and paid for by Toledo taxpayers to the homeowners, is going to be landscaping. The top area of that parcel is more than large enough for the new truck plant and for the staging areas for the trucks.

There is a small business with 70 employees, roof repair business, that is going to be displaced by that plant. Chrysler is given a tax holiday in property taxes. The Toledo city government absorbs all environmental risks. The Toledo city government, which is very seriously strapped, has to pay for the clearing of the land and preparing of the land for this private corporation. This small business which is going to be displaced has to pay its property taxes, has to pay its dues, but the giant Daimler Chrysler corporation with $20 billion in cash does not have to pay its property taxes to the city of Toledo.

When I called up the general counsel of Chrysler, Lewis Goldfarb, and I said tell me——

Chairman KASICH. I bet he was excited to get your call.

Mr. NADER. Yes. Why does a company with $20 billion in cash bring the city of Toledo to its knees and refuse to do what any homeowner in Toledo and what any small business in Toledo has to do, pay their dues, pay their taxes, pay for their own land purchasing? Why? And his answer was because we are putting a billion dollars investment in this plant. I said, well, small business puts money in their stores and their plants. It is all proportional. Are you saying that because you are big enough, you can get away with being a property tax escapee, even though you are burdening the city services, the schools, the police, the fire departments?

Basically, they have the power to do it, Mr. Chairman, and they are going to do it. The cities are terrified that these companies will leave, so the companies pit one State against another. The cities and states crumble just like Detroit crumbled when GM put up its plant in the Poletown neighborhood with another $300 million-plus package of Federal, state and local subsidies. And I might add, 400 homes, 12 churches, a hospital, and dozens of small businesses were leveled for this plant, which ended up producing half the jobs it promised and only used a small portion of the 400 acres from which the Poletown community was evicted.

Intel corporation is another example. They build billion dollar plants in small towns in the West, and they cut very, very harsh deals with these towns, including escaping $50 million per plant in property and other local taxes, notwithstanding that they have burdened the schools, the police, the service, sewage, water, et cetera, and other services. I asked Intel CEO, Andy Grove, how can you as a relative statesman among corporate executives allow this to happen? He gave me a pained look and he said, you know, these communities just throw themselves at you, and we have an obliga-

tion to our shareholders. But not an obligation to support the community, apparently.

It gets even worse. There are now corporate subsidies to gambling casinos. Thirty years ago, if you asked any Member of Congress, do you think that there would ever be corporate subsidies to gambling casinos, they would have thought you were off your rocker. Yet Governor Whitman of New Jersey has taken $200 million to build a 1-mile or so tunnel into a new gambling casino that gambling mogul Steve Wynn is going to build in Atlantic City. Never mind that the schools in New Jersey are crumbling. Never mind that the public works in New Jersey are crumbling. $200 million for a tunnel into the land of hope and illusion. And that is not all.

There are gambling casinos going up in Detroit where a whole series of small business are being taken, and displaced, and where taxpayers are funding gambling casinos. Imagine: Detroit used to be the hub of the greatest manufacturing center in the world. People worked for the future instead of bet on the future. Now they are going to rely on gambling casinos for economic development when gambling takes it out of the hide of lower-income people more than any other strata of our society.

To end local and state corporate welfare and other Federal corporate welfare, I would recommend congressional hearings—with the presence of some of the corporate welfare kings. Wouldn't it be nice to have some of the corporate welfare kings lined up here answering questions about why they are feeding at the public trough when they are producing huge profits, huge executive compensation? I think they should be asked to explain why they are blackmailing cities, counties and States, often just to build stadiums or arenas, while other, desperately needed public works are starved of the money.

Congressional hearings should also probe whether the provision of tax subsidies and similar incentives distort economic decision-making concerning the location of business activity, therefore, constitute an unconstitutional infringement on Congress's power to regulate interstate commerce.

This is an analysis done on this matter in great detail in the December 1996 Harvard Law Review in an article by law professor Peter Enrich, which is cited in my testimony. I suspect there is going to be a lawsuit filed evoking that commerce clause concept very shortly in Federal court.

Second, the States need to be authorized and encouraged to enter into compacts in which they refuse to enter a race to the bottom against each other in terms of special tax breaks and related benefits. That will probably require congressional legislation to authorize these kinds of interstate compacts.

And as you will hear shortly, Representative David Minge has a bill here in the House that would authorize the Federal Government to levy a surtax on companies receiving state and local tax breaks, at the very least treating the value of the tax breaks as income upon which Federal taxes should be paid. That is another way of generating a more level playing field.

Senator Mark Hatfield, Oregon Republican in the Senate, made a crusade over his years, Mr. Chairman, against corporate subsidies for private commercial weapons exports to foreign govern-

ment. He didn't like it for a number of reasons, one of which was that it was a misuse of tax money. Second, it often supported dictators who repressed their own people. Third, some of the weapons were even used against U.S. military personnel. The amount of annual subsidy there is in the billions of dollars. He would give estimates around 6 to $7 billion.

And then, of course, there is the highway pork which you have rendered some judgments on. You will hear later from a group that will detail some of the unnecessary highways and misdirected highways that are being——

Chairman KASICH. Mr. Nader, would you just suspend for a second. I don't want you to gloss over an issue you just mentioned, which is an issue called recoupment which I have been involved with. It is a very obscure issue, but it is one that really encourages the transfer of many—of weapons technologies, something that I know we have been concerned about in light of the transfer of technology recently. It is a very interesting program, and I did make an effort to take it out. It came out for about a nanosecond and then went back in, but it is a very interesting program in and of itself, just to underscore the issue of recoupment.

Mr. NADER. There is also the issue of offsets.

Chairman KASICH. The offsets.

Mr. NADER. These are where countries who received these weapons exports cut deals and say, well, we want two-thirds of them to be built or we want something in return, and eventually, the technology is transferred to countries like China and other nations. Yes, I do mention that in my complete testimony.

More recently, the Department of Defense Inspector General reported on spare parts provided to the Pentagon by Allied Signal Corporation that were sold at a 57-percent markup over commercial price. You know, when it comes to corporate issues, there isn't all that much difference between the two parties. How is this for an example? The Republicans never thought of doing this one. The Clinton administration is now having the Pentagon mergers by prime defense contractors subsidize. The argument is that there is a surplus of capacity in the defense industry, there should be mergers, and it is up to the Pentagon to facilitate these mergers with sweetened tax dollars.

Our answer is, if there is overcapacity, let them cut their capacity the way it is done in the market system. Let them change over into doing something else. But Martin Marietta-Lockheed didn't need a billion and a half taxpayer dollars to get married. Then $30 million was reserved for executive bonuses until Bernie Sanders and the rest of the House of Representatives stopped that. And so now we have routinely companies merging and getting Pentagon subsidies as a result. This was something that the Clinton administration has innovated.

Agricultural subsidies, you will hear probably a lot about that later, but the original purpose of farm supports, Mr. Chairman, was to support family farmers, not giant agribusiness and to enhance stability in agricultural markets. It is doubtful whether these programs still fill this function. At the same time, it is important to examine whether the 1996 farm bill had the unintended effect of promoting agribusiness consolidation and increased power

for grain traders at the expense of small farm viability, whether that is happening at an accelerating pace which suggests the need for a serious and open-minded reassessment of these farm programs.

I think it is important, Mr. Chairman, to develop this analytic framework to give the corporate welfare examination process the proper stamina and intensiveness. There are some simple questions that you can ask for any corporate welfare program. Does it serve some broad public purpose? That suggests it has merits beyond the benefits it confers upon a particular corporation. If not, the program should be canceled.

If it does serve some public interest, can the government achieve the same ends or, more important, public goals by retaining an interest in an asset being given away or doing a service in-house?

Third, does the program involve functions that should be properly left to the marketplace?

Fourth, if the government is going to distribute assets or contracts or tax breaks to selected private parties, can it do so in a nonexclusive way so that competition is promoted? This business of giving away taxpayer assets to exclusive monopoly recipients is antithetical to everything the competitive market should stand for.

Admiral Rickover had a simple idea. He said, look, open it up to competitive bidding if you want to give away a drug that the government develops like Taxol or a particular piece of hardware innovation. If you are going to transfer it, open it up to nonexclusive competitive bidding for 6 months. If it doesn't get a nibble, then you can negotiate maybe a sole source transfer. That was Admiral Rickover's approach, and as you know he had enormous experience in government-corporate contracting details.

Five, if the government is going to provide corporations with services or give away its assets, is there any reason it shouldn't charge a market rate? Should it charge a below-market rate like with timber sales? There were years, for example, when 150-foot spruce trees in the Tongas Forest in Alaska was sold for the price of a hamburger in Alaska. It is not much more than the price of a hamburger now, maybe a double cheeseburger. That is ridiculous when you consider a 200-year-old tree of that magnificence being given away to both domestic and foreign-owned corporations up there in the Tongas National Forest.

Six, are there any nonmonetary reciprocal obligations that should be demanded of special interests that receive government benefits? For example, if we are going to give $50 billion bailouts in 1989 and $50 billion in 1990 to the S&L crooks and speculators, why don't we require the S&Ls to put in their monthly bank statement an insert—at no expense to themselves and paid for by consumers—that would invite consumers to form their own financial consumer association and monitor their own banks on the corner of Elm Street and Main Street in Columbus, Ohio, or some other place so that this never happens again?

In short, if the government's going to bail out an industry due to the industry's culpability, negligence, overreaching corruption, speculation, it should empower the customers of that industry, like utility consumers or bank consumers, with a simple insert that costs the taxpayer nothing, is voluntary for the consumers to join,

so they can form their own private watchdog group with their own annual dues and their own operated organization.

You might be interested to know that this proposal was made to the House Banking Committee in 1989 and 1990, each year that it had a bill subsidizing the bailout. We got six votes out of over 40 or so in the House Banking Committee for this concept, something that cost the taxpayer nothing, is voluntary to consumers and would clearly deter any repeat of this horrible commercial boondoggle that cost the taxpayers billions of dollars all the way to the year 2020.

And then finally is there an institutional means of periodic review of the program to ensure that subsidy programs, if they are going to be allowed to continue, continue to serve their broader public purpose? Does the program require reauthorization by Congress or will it have automatic renewal?

The central question to ask is what are the procedural and substantive avenues for citizen challenge of the program, whatever subsidy program, to restrain unauthorized, unbridled government misbehavior in these areas?

This is a classic series by Time Magazine late last year on what corporate welfare costs the average American by Donald Bartlett and James Steele. I am told that this is one of the most sought after issues of Time Magazine on the stands, and it got enormous letters of approval by people who read this series, and I will submit this for the record as well.

I might also note, Mr. Chairman, that the area of remedies here in my testimony are detailed, and they are put there for discussion. They are put there for discussion, debate, and I would just like to quickly summarize them.

One would be a bill to eliminate all corporate welfare and make them start all over again. Remember zero-based budgeting? You just eliminate all corporate welfare and say to the mining companies, come to Congress, mining companies, and tell us why you should get hard rock minerals on the Federal lands free of charge from the U.S. Government, which is the trustee for taxpayers for these minerals.

Then there should be citizen standing to sue, to challenge corporate welfare abuse. How many people realize that the citizens are completely shut out from using the courts to challenge executive branch abuses in corporate welfare, including alleged illegal positions by the government or looting of the U.S. Government, say, by oil companies who year after year underpay their royalties on the Federal lands where oil is being explored?

How about small funding for town meetings on corporate welfare all over the country to inform the public of this vast area of power play allocation of their tax dollars? What about sunsetting corporate welfare and basically giving them a term of office. You know, $300 a month welfare mothers are now under a 5-years-and-you-are-out requirement, but corporate welfare kings don't have to adhere to any 5-years-and-out requirement.

What about annual agency reports on corporate welfare? Make these agencies list every program so Congress can have data and information on which to proceed with its analysis. Why not list every corporate beneficiary of these subsidies above a certain di-

minished threshold and publish this on the Internet? By the way, Mr. Chairman, the Internet needs to be much more focused on by the Congress. All the voting records of Members of Congress should be on the Internet, and unfortunately, that is not the case.

What about a Securities and Exchange Commission requirement for corporate welfare disclosure? The SEC law could be amended to require publicly traded companies to list the subsidies both by type and amount they receive from governmental bodies and to publish this information on the Internet.

What about limits on multimillion dollar annual executive compensation in government subsidized or sponsored corporations? What about prohibiting government subsidies to criminal corporations, corporations which are adjudicated to engage in criminal price fixing, like Archer-Daniels-Midland has been on the lysine scandal?

What about reciprocal obligations, where the government gets something in return from the corporate welfare beneficiaries?

What about government properties, real or intangible, that should be presumptively sold, leased, or rented at market rates?

What about promoting competition in the allocation government resources?

What about competitive bidding for exclusive rights to taxpayer assets where exclusivity has been determined to be appropriate?

What about reasonable pricing provisions for that Taxol drug and for that woman with ovarian cancer and for the taxpayers who have to pay at both ends to develop the drug and to pay for Medicaid?

What about ending fossil fuel and nuclear power research and development subsidies and letting energy conversation and renewable energy operate on a level playing field?

What about a presumption against discount insurance which often gets to market risky technology?

What about paybacks for bailouts?

What about preventing foreseeable financial bailouts with amendment to H.R. 10, which I might add Senator D'Amato asked us to submit when we testified on that legislation. This is an amendment, which I included in my testimony on the back page, that would prevent any bailouts of these giant financial conglomerates that H.R. 10 would facilitate. We drafted this with great specificity, Mr. Chairman, and then it fell on deaf ears in the Senate.

What about eliminating all corporate tax expenditures or requiring regional and national compacts, et cetera?

Mr. Chairman, the time is now for you and other courageous Members of Congress, who truly believe in ending corporate welfare as we know it, to launch a series of General Accounting Office, Congressional Research Service and Congressional Budget Office studies and conduct extensive hearings in Washington, DC, and across the country to introduce and vigorously push for corporate welfare legislation and, by your leadership, to force this issue with such broad appeal to many liberals and conservatives, to small taxpayers and small businesses all over the country on to the front pages and the nation's television screens.

There is a nascent, national consumer-taxpayer-environmental-worker-small business coalition waiting to be consolidated on this issue. It is an issue that sometimes divides progressives from liberals and conservatives from corporatists. But it is an issue which unites many people who have never been united before to form a powerful political force that can help rescue our political democracy from the narrow interests that now dominate.

Given its breadth, this testimony necessarily paints in broad strokes. It has unassailable rhetoric, as well as deep and irrebuttable evidence, but it is important to reiterate that we do not oppose all corporate welfare. It is important that even good corporate welfare programs operate with safeguards in place to ensure procedural fairness, full disclosure of beneficiaries, frequent congressional review, citizen standing to challenge in the courts and reciprocal payments, as well as nonmonetary commitments from recipients.

You know, during the energy crisis, we didn't want to be dependent on foreign oil. It may have been valid to have corporate welfare programs to facilitate energy efficiency or solar energy.

This hearing, Mr. Chairman, is an important and historic beginning, but if it is not followed up by more hearings and a sustained effort that involves more and more Members of Congress and citizen organizations, it will be of modest consequence. It is our obligation, Mr. Chairman, to support your courageous position here and those of your colleagues and to support it day after day; and to help expand the opportunity presented by this public hearing, where Congress is at its best in educating the people about very important issues that are not just economic or not just taxpayer, but deal in many areas from the environmental to the level playing fields we would like our economy to adhere to.

So bring on the corporate welfare kings to testify before your committee, and the excitement will be such that it may even make the Geraldo Show and other television shows that thus far have somehow, in their sadomasochist proclivities, ignored the subject of corporate welfare.

Thank you, Mr. Chairman.

[The prepared statement of Ralph Nader follows:]

PREPARED STATEMENT OF RALPH NADER, CONSUMER ADVOCATE

Chairman Kasich and members of the House Budget Committee, thank you for the opportunity to testify today on the vast subject of corporate welfare.

Today's hearing is long overdue. A significant percentage of the business of Washington, DC, revolves around corporate welfare—with lobbyists, trade associations and business executives lobbying to obtain or protect special, favorable treatment from the Federal Government—but curiously, notwithstanding our efforts since 1970, there has never been a Congressional hearing devoted to a comprehensive assessment of the issue. Government agencies and research offices have conducted only a handful of Joint Economic Committee-type studies in recent decades which tried just to inventory the long list of mechanisms by which the government distributes tax revenues and other public assets to private business.

Mr. Chairman, you deserve major credit for issuing a clarion call for Congressional attention to corporate welfare, and for leading various legislative efforts over the years to end egregious corporate welfare programs that benefit narrow business interests at the expense of the taxpayer, and often, one should add, at the expense of other important concerns, such as environmental protection, economic competition, fair consumer prices, national security, job creation and a well-functioning democracy.

As you know well, Mr. Chairman, the myriad of corporate welfare programs generally do not persist on the merits. Rather, they remain entrenched and continue to grow because strong and well-organized business interests, with huge monetary concerns at stake, aggressively work to defend and expand them—often hand in hand with powerful Members of Congress with whom they maintain mutually advantageous relationships. Cleaning the corporate welfare slate will not be easy.

There is only one change that will counteract the entrenched interests which create, shield and rationalize corporate welfare programs: an informed and mobilized citizenry. Absent organized and focused public outrage, legislative efforts will yield minimal success as compared to the overall scale of the corporate welfare budget. To make this claim is not to belittle such efforts. Legislative initiatives directed toward particular programs and abuses can achieve reforms that are important in their own right, and legislative proposals can and should be part of the very process of generating citizen interest and focused attention.

But innovative legislative proposals will not, by themselves, be sufficient to create an informed public opinion that translates into the action needed to create a countervailing force to the business lobby for corporate entitlements.

Many steps will be needed to create that countervailing force, but one very important step will be a series of high-profile Congressional hearings that shine the light on egregious corporate welfare abuses, develop an analytic framework to assess corporate welfare programs, develop procedures and hone proposals to eliminate or control corporate welfare programs, bring the Corporate Welfare Kings (beneficiary CEOs) before Congressional committees to justify their dependence on the public dole, generate news media stories and investigations, and elevate the visibility of the issue in policy debates within the Beltway and around the country in town hall meetings. This hearing should begin that process. We hope it will be followed in coming months and years by more detailed inquiries.

In this testimony, after preliminary remarks on the evolution of corporate welfare and on defining corporate welfare, I will offer a rudimentary corporate welfare classification scheme and highlight particular examples of each category. (The categories offered: government giveaways; government-funded research and development; bailouts; tax expenditures; government-sponsored enterprises; loans and loan guarantees; state and local corporate welfare; export and overseas marketing assistance; defense, transportation and other pork; loans and loan guarantees; and grants and direct subsidies.) In addition to fleshing out the typology, the discussion of examples will be intended to offer insights into the following questions:

- What rationales do private interests use to secure subsidies from the government, and then to shield them from challenge, from either the legislative and judicial branches?
- How do corporate welfare programs become entrenched and immune to cessation or reform?
- To what extent do foreign corporations benefit from the expenditure of U.S. taxpayer dollars on corporate welfare?
- How can fair pricing mechanisms be used to allow beneficial programs to be preserved, while eliminating welfare subsidy components?
- What criteria should be used to determine when corporate welfare programs should simply be cancelled, and when they should be restructured to extract public benefits, pay-backs or investment returns from the government-supported enterprise?
- What administrative due process should apply to corporate welfare? How can taxpayers be given standing and procedural rights under the Administrative Procedures Act and other relevant statutes to challenge arbitrary agency action in the corporate welfare area?
- How do economic subsidies disadvantage nonsubsidized competing businesses, who pay their dues, and foster undesirable market outcomes?

At the conclusion of my testimony, I will suggest, for discussion purposes, reforms to rein in the proliferation of corporate welfare programs. These will not be in the form of a target list of programs that should be cancelled (though there are certainly many of these, and several highlighted here). Rather the proposals are overarching approaches, elements of a comprehensive approach to corporate welfare.

DEFINING AND SCRUTINIZING CORPORATE WELFARE

"Corporate welfare" is a general term in need of definition before it can become the basis of legislative action.

Many have offered a working definition that looks to the benefits conferred and costs incurred by a particular program, subsidy or loophole. In these definitions, if a program is considered corporate welfare if its public cost outweighs its public ben-

efits. Others have asked whether the private, corporate benefit outweighs the overall public benefit. These are important questions—questions which should be asked of any corporate welfare program—but they are too narrow to serve as the basis for defining corporate welfare. Defining corporate welfare in this fashion also immediately orients the debate about any particular program into a contest over the program's merits, with defenders of the program inevitably explaining how it creates jobs and therefore is worthy of taxpayer support.

A more robust definition of corporate welfare looks not to the benefits conferred on the public, but to the benefits conferred on corporations as compared to any corporate payment, or goods or services provided, to the government. If a program involves the government giving more to private companies than it gets back—that is, where it is engaging in a transaction that cannot be justified as a fair market value exchange—then it should be considered corporate welfare. No definition of corporate welfare will be all-inclusive—some element of know-it-when-I-see-it will have to remain, including for pork-laden contracts for unnecessary goods or services—but applied flexibly, this definition should serve well.

The advantage of this definition is that it suggests analytic inquiries other than whether a program is "good" or "bad." It allows for the possibility of "good" corporate welfare—programs that confer subsidies on business but are merited because of the overall public gain. (As I will reiterate, I believe there are cases of "good" corporate welfare—but these too should be subjected to proper procedural and substantive checks.)

In deferring the debate over a program's merits, this definition of corporate welfare channels discussion so that a series of inquisitive screens can be applied to the program, including but not limited to whether the program should be cancelled.

Among the screens that should be applied:

1. Does the program serve some broad public purpose that suggests it has merits beyond the benefits it confers on particular companies? If not, the program should be cancelled.
2. If it does serve some public interest, can the government achieve the same ends or more important public goals by retaining an interest in an asset being given away or doing a service in-house?
3. Does the program involve functions that should properly be left to the market?
4. If the government is going to distribute assets or contracts or tax breaks to private parties, can and should it do so in a nonexclusive way so that competition is promoted?
5. If the government is going to provide corporations with services, or give away its assets, is there any reason it should not charge, or should charge below-market rates?
6. Are there nonmonetary reciprocal obligations that should be demanded of special interests that receive government benefits? These might include, but not be limited to, reasonable pricing of government-subsidized goods and services sold to consumers.
7. Is the program subject to constitutional or other judicial challenge as a waste of taxpayer assets, or use of taxpayer assets for corporate welfare, rather than the general welfare? Does the program exceed the implementing agency's statutory authority? What are the procedural and substantive avenues for citizen challenge of the program to restrain unauthorized agency action?
8. Is there an institutional means of periodic review of the program to ensure it continues to serve its broader public purposes? Are criteria delineated by which the program should be evaluated? Does the program require reauthorization or will it have automatic renewal?

These queries should be applied in public and Congressional debate, but they should also adopted in comprehensive legislation, as suggested in the suggested discussion of proposals at the end of this testimony.

THE EVOLUTION OF CORPORATE WELFARE

Corporate welfare is probably as old as the corporate form, and runs through all U.S. history. The Crown Corporations such as the Jamestown Company and the Massachusetts Bay Company that colonized America were given exclusive rights to exploit designated territories.

While a vigorous tradition of skepticism of corporate power characterized early America, corporations were frequently able to translate political power into economic benefits from the states. In Ohio, for example, the state legislature passed the Ohio Loan Law in 1837—disparaged by citizens as the Plunder Law—which required the State to give tax revenues to private canal, turnpike and railroad cor-

porations while permitting them also to charge tolls. Ohio, like other states, passed "special legislation" to confer benefits on particular companies.

Government land giveaways without what we would now call fair-pricing requirements helped the railroads gain a monopolistic stranglehold over farmers in the West, spurring the Populist Movement.

Special deals between the Federal Government and J.P. Morgan and a coterie of financiers conferred huge profits on Wall Street interest at the turn of the century.

Through corruption and the exercise of political power, utilities and trolley systems extracted subsidies and special deals from local and state governments in numerous forms through the first decades of this century.

Following the Federal Government expansion of the New Deal and World War II eras, the enlarged Federal budget and enhanced Federal authority offered new opportunities for giveaways and corporate handouts. Defense and nuclear power companies, perhaps more than any others, latched on to the corporate welfare bandwagon and never let go. Other corporate interests found opportunities in the urban renewal efforts of the 1950's and 1960's, which often benefited developers and construction interests at the expense of low-income communities. And elaborate tax dodges came into vogue.

The bailouts of Lockheed and Chrysler in the 1970's narrowed still further the separation between government and business, and paved the way for the sharp upsurge in corporate welfare of the last two decades.

The Reagan-Bush years perhaps marked the beginning of what could be called the corporate state, characterized by an expanding array of welfare benefits for big business as well as a host of other privileges and immunities. That condition continues to prevail today.

The public is widely disenchanted with the corporate welfare budget, especially in the era following the sharp limitations placed on welfare for poor people in 1995. Now is a time when the corporate welfare tide can be turned, if Members of Congress are prepared to focus the spotlight on corporate welfare programs and beneficiaries, to call the Corporate Welfare Kings to account, and to rally around the public around a pro-taxpayer, pro-competition, pro-environment, pro-consumer, pro-worker, anti-corporate welfare agenda.

GIVEAWAYS

The U.S. Federal Government is quite probably the richest property owner on earth. The government owns vast tracts of land, including oil and mineral riches, forests, thousands of buildings and plants, the public airwaves and much more.

Because they often do not appear as budgetary debit items, government giveaways too frequently escape the corporate welfare stigma. Giveaways are in fact one of the purest forms of corporate welfare—a something-for-nothing, or something-for-too-little, proposition. The level of public outrage would be high if the government wrote a $70 billion check to the broadcast industry—but that is effectively what happened when the Federal Communications Commission, pursuant to the Telecommunications Act of 1996, handed over the digital television spectrum to existing broadcasters.

The government retains its property as the shared commonwealth of the people of the United States, and there should be a strong presumption against giving it away. Where a reasoned decision is made to distribute some of that wealth to private parties, the government should explore whether it can distribute the public assets in a nonexclusive, public-purpose way, or in a fashion that promotes competition. When public assets are going to be distributed to private parties, there should be a strong presumption that the government should receive a market-rate purchase or lease price; and where taxpayer assets are to be distributed to a narrow class of beneficiaries, below-market purchase or rental rates should be accepted only in the most compelling of circumstances. Finally, prior to transfer or government property to private parties, the government should consider whether there are nonmonetary reciprocal obligations that should be demanded of recipients—these may include everything ranging from binding promises to adhere to higher environmental standards to contributing equipment to support noncommercial television.

With stealth government giveaways of public assets, such as the internet naming rights discussed below, accelerating, there is an urgent need for the adoption of procedural and substantive protections to prevent the looting of the commonwealth.

DIGITAL SPECTRUM GIVEAWAY

In one of the single biggest giveaways in U.S. corporate welfare history, the Federal Communications Commission (FCC) on April 7, 1997 donated broadcast licenses for digital television to existing broadcasters.

Under the terms of the giveaway, the broadcasters will pay nothing for the exclusive right to use the public airwaves, even though the FCC itself estimated the value of the digital licenses to be worth $11 billion to $70 billion.

The giveaway was mandated, in part, by the 1996 Telecommunications Act, which prohibited, under demands by the broadcaster lobby, the FCC from auctioning off the airwaves. The Telecommunications Act also required the FCC, if it decided to allocate the licenses, to give them only to incumbent broadcasters.

The licenses will permit the broadcasters to air programs through digital signals, which offer higher picture quality than currently used analog broadcasting. FCC rules will require broadcasters in the largest cities to air digital programs in the next few years. All of the broadcasters will continue to air analog versions of their programs, at least during a dozen-year transition period.

The new licenses are for the spectrum equivalent of five or six digital television channels. The broadcasters will be able to use the extra channels to air multiple simultaneous programs or, more likely, for other purposes, potentially including data transfer, subscription video, interactive materials, audio signals and other not-yet-developed innovations. In these enterprises, they will compete at advantage with noncorporate-welfare receiving companies.

The original theory behind granting the broadcasters such wide spectrum space was to permit them to air high-definition television (HDTV). But many broadcasters may choose not to air HDTV, and instead will receive the extra spectrum channel space as a super-windfall-yielding a no-license-fee revenue stream from nonbroadcasting uses of the spectrum, in addition to revenues from no-license fee airing of digital television broadcasts.

As former Senate Majority Leader Bob Dole has recognized, there is no conceivable reason why the incumbent broadcasters should have been given exclusive rights to use the airwaves. Other possible television broadcasters should have been given the right to bid for portions of the digital spectrum, and so should have other potential users, such as data transmission companies.

These competing business interests' protestations were completely trumped by the power of the National Association of Broadcasters (NAB), however.

This is the quintessential perversion of democracy: the broadcasters pay nothing to the public for the right to air programming over the public airwaves; then they use the influence they gain over politicians from their use of these public resources to extort still greater subsidies; and all the while they do not allow this subject to be covered on their news programs.

Only a few weeks after consummating their tremendous coup at the FCC, the broadcasters expressed sudden concern with the fate of viewers who would be forced, in 12 years time, to buy new televisions if the broadcasters forfeit their analog stations, as currently scheduled. This would indeed be an extraordinary consumer shakedown, but not one that the broadcasters are positioned to challenge in good faith. They are now lobbying to maintain their analog stations—another public resource which they exploit free of charge. The FCC estimates the value of the analog spectrum at as high as $132 billion.

Lost in the giveaway was the opportunity to set aside portions of the broadcast spectrum for public access, educational and public interest programming.

However, a new opportunity is presented by the as-yet-unspecified public interest obligations of the broadcasters, which could be defined to include public interest and public access programming. As part of their public interest obligations, the broadcasters should be required to allocate a substantial portion of their new spectrum space and time to public access programming, and to fund quality programming. Specially chartered, democratically governed citizen television networks could develop programming, or moderately funded programming opportunities could be allocated to qualifying civic organizations. Such a modest dose of media democracy can only be good for our nation's democracy.

Others have suggested additional requirements that should be imposed on the broadcasters as public interest obligations. People for Better TV, a national coalition including the American Academy of Pediatrics, the Civil Rights Forum on Communications Policy, the Communications Workers of America, the Consumer Federation of America, the league of United Latin American Citizens, the NAACP, the National Council of Churches and the National Organization for Women, is calling for a debate over and analysis of serious proposals to ensure that broadcasters devote meaningful coverage to public affairs, that the broadcasters respect and nurture rather than exploit children, and that measures are taken to promote racial, ethnic and gender diversity in television programming.

However, as People for Better TV points out, the Gore Commission which was charged with considering how to define the broadcasters' public interest obligations—remember, again, these obligations are the only payment the broadcasters

will make for controlling now $200 billion in taxpayer airwaves assets—failed to rise to the occasion. (The Los Angeles Times derided the report as a 'anational scandal.") Moreover, although the print media devoted some attention to the issue, as People for Better TV notes, "Television stations, perhaps fearing regulation, kept the issue off the local and national news. The discussion about how TV stations will (or will not) serve their community is taking place in the same back-room, deal-making, back-slapping environment that always preoccupies official Washington."

"The spectrum giveaway and the secrecy surrounding this important debate are travesties of American democracy," the coalition rightly concludes.

THE 1872 MINING ACT

No discussion of government giveaways can fail to take note of the absurd Mining Act of 1872. The Act—which recently celebrated its 125th giveaway anniversary!—is the subject of regular reform efforts. The reason is simple: the Act allows companies to purchase Federal land for $5 an acre or less and to mine valuable minerals from Federal land without paying a cent in royalties. Whatever the merits of the Act at the time of passage, when it was intended to help settle the West, it has long been clear that the Act serves an unjustifiable giveaway to narrow corporate interests, including foreign corporations. As Carl Mayer and George Riley note in their history of the 1872 Mining Act, "Many of the deficiencies noted three of 4 years after the law's passage have been cited repeatedly by committees and legislators during the last century. The critics have focused on four problems: the failure of the law to return appropriate revenue to the Treasury; the inability of the Federal Government to halt fraudulent acquisition of mineral land; the loss of government control of patented land which passes out of public ownership; and the elevation of mining to the highest use of the land." But reform efforts regularly fail, thanks to mining lobby interests—a lobby with power vastly disproportionate to its economic contributions, which are estimated at about one-tenth of 1 percent of the West's total income.

Many of the mines on Federal or patented land are literally billion-dollar giveaways—often to foreign companies. In 1994, American Barrick Corporation, a Canadian company, patented nearly 2,000 acres of public land in Nevada that contained over $10 billion in recoverable gold reserves. Taxpayers received less than $10,000. In 1995, a Danish company patented land in Idaho containing more than $1 billion in minerals for a price of $275.

The Mineral Policy Center estimates that mining companies extract $2 billion to $3 billion in minerals from public lands every year—royalty free. From 1872 to 1993, mining companies took more than $230 billion out of the Federal lands, royalty free, according to the Mineral Policy Center.

In 1994, Congress imposed a moratorium on patenting, but already filed patents continue to be filed, and mining companies continue to work already claimed lands.

Third World countries routinely strike better deals with mining companies than does the most powerful government on the planet. A mere 8 percent royalty on existing mines would bring $200 million a year into the Federal coffers.

The subsidized mines interfere with other economic and noneconomic uses and values of public lands. University of Montana Professor Thomas Power has developed cogent arguments that the destruction of the natural environment associated with mining on Federal lands imposes real economic costs, absorbed both by the tourism industry and residents whose land values and basic decisions to live in the West are based in part on the high quality living environment of the region. The Mineral Policy Center estimates direct cleanup costs for the more than half million abandoned mines on Federal lands in the $30 billion to $70 billion range.

In March 1999, the Clinton administration ruled that it would enforce environmental laws that limit the ability of mining companies to dump waste on public lands, and thereby limit the extent to which hardrock mining can be done. The mining industry has set fast to work to repeal this ruling, through a rider to the Interior Appropriations bill or other mechanisms. Congressional enactment of a repeal would be a wholly unjustified degradation of the environment and environmental law. For well over a century, Congress has been more than generous enough to the mining industry.

INTERNET GIVEAWAYS

An evolving giveaway of public assets involves the management of the U.S. government's internet assets. The Federal Government currently contracts with Network Solutions, Inc. (NSI), to manage certain domain name registrations. After entering into the contract in 1993, NSI was later acquired by SAIC for $3.9 million, and subsequently was permitted to charge U.S. consumers wildly excessive fees for

registering internet domain names. NSI's monopoly on the .com and other valuable domain names has turned a tiny initial investment into a firm with a market capitalization of $2.5 billion—thanks to control of the power to sell the public the right to use their own domain names. At no time did the government seek any competitive bids to determine the prices that consumers and business should pay for domain name registrations. As public resentment over the high prices and poor service have grown, the government is now trying to find ways to introduce competition. But NSI is using its monopoly profits to lobby the Congress and the executive branch to maintain its monopoly.

As the Administration seeks to replace the current NSI monopoly with something new, it is using its earlier mistakes as a rationale for a new government giveaway that could create an entirely new set of governance problems for the public. Currently the Administration is negotiating a transfer of the "A DNS root server" to ICANN, a private nonprofit organization. The new nonprofit organization seeks the authority to impose fees on all internet domain names, to set international policy on trademarks and other issues, and to launch an undefined set of policy initiatives that it will fund from fees assessed on domain registrations. This new initiative raises a number of questions regarding its lack of accountability, and it is justified largely on the basis that the NSI monopoly needs to be "fixed." But it is hard to see how the creation of a new unaccountable body constitutes a "fix."

GOVERNMENT RESEARCH AND DEVELOPMENT

The Federal Government invests tens of billions of dollars annually in research and development (R&D), most prominently through the Department of Defense, the Department of Energy and the Department of Health and Human Services. These investments lead to new inventions and the award of thousands of patents—publicly financed, and frequently publicly owned intellectual property.

Since the early 1980's, the government has routinely given away the fruits of the research it sponsors, granting private corporations exclusive, royalty-free rights to commercialize government-financed inventions while failing to include and/or enforce reasonable pricing requirements in the licenses. The result: a corporate welfare bonanza for biotech, computer, aerospace, pharmaceutical and other firms.

In the critical area of pharmaceuticals, for example, this research giveaway policy leads to superprofiteering by giant drug manufacturers, who charge unconscionably high prices for important medicines—costing consumers, and often resulting in the denial of treatments to consumers who are unable to pay high prices. In an irony that must keep the staff of the Pharmaceutical Researchers and Manufacturers Association in stiches, perhaps the largest ripped-off consumer is the Federal Government—the same Federal Government that paid for the drugs' invention—which must pay extravagant fees through the Veterans' Administration and Medicaid (although the government-brokered prices are lower than those paid by individuals).

It wasn't always so. Following the creation of a major Federal role in research sponsorship in World War II, the Justice Department concluded in 1947 that "where patentable inventions are made in the course of performing a Government-financed contract for research and development, the public interest requires that all rights to such inventions be assigned to the Government and not left to the private ownership of the contactor." The Justice Department recommended also that "as a basic policy all Government-owned inventions should be made fully, freely and unconditionally available to the public without charge, by public dedication or by royalty-free, nonexclusive licensing."

The Justice Department offered what remains a compelling case for nonexclusive licensing: "Public control will assure free and equal availability of the inventions to American industry and science; will eliminate any competitive advantage to the contractor chosen to perform the research work; will avoid undue concentration of economic power in the hands of a few large corporations; will tend to increase and diversify available research facilities within the United States to the advantage of the Government and of the national economy; and will thus strengthen our American system of free, competitive enterprise."

Even in 1947, the Justice Department position was not the uniform standpoint of the Federal Government. The Defense Department consistently maintained a policy of allowing contractors to gain title to government-sponsored inventions, so long as the Pentagon was able to maintain a royalty-free right to use the invention.

In the ensuing decades, government policy evolved unevenly between different agencies, with some gradual increase in exclusive rights transfers to private parties. The various agency policies favoring exclusive licensing were done without Congressional authorization. Seven Members of Congress and Public Citizen filed suit in

1974 against the disposition of government property without Congressional authorization, but the case was dismissed procedurally on lack of standing grounds.

Beginning in the mid-1970's, however, big business, in collaboration with partners at major research universities, began lobbying for a major transformation in government patent policy. Based on highly questionable evidence, the business-university alliance argued that exclusive licensing was necessary to spur private sector innovation and development of government-funded inventions.

The concerted business-university campaign succeeded in 1980 with passage of the Bayh-Dole Act, which transferred exclusive control over many government-sponsored inventions to universities and small business contractors. Universities were in turn permitted to exclusively license to private corporations, including big businesses.

It is important to note that the Bayh-Dole Act was contentious at the time of passage. Other alternatives proposed at the time included a suggestion by Admiral Hyman Rickover that government inventions be licensed nonexclusively for a period of 6 months; and that if no party had indicated an interest in commercialization, that the patent then be open to competitive bidding for an exclusive license. A proposal by President Carter, which passed the House of Representatives prior to passage of the Bayh-Dole Act, would have limited the exclusive license granted by government to designated "fields of use." But presented with the Bayh-Dole Act, President Carter signed it.

In 1983, President Reagan issued a Presidential Memorandum which instructed executive agencies to grant exclusive inventions to contractors of all sizes. Again, another critical phase in the path of wholesale giveaway of government inventions occurred as the result of unilateral executive action, without Congressional authorization.

In 1986, Congress passed the Federal Technology Transfer Act, which authorized Federal laboratories to enter into exclusive contracts with corporations to develop and market inventions originating in the Federal labs. The Federal labs have enormous discretion in working out exclusive licensing arrangements and, without even the universities' interest in earning some reasonable royalty, the labs have effectively given away hugely profitable taxpayer-financed inventions with no public return either in the form of royalties or, more importantly, meaningful restraints on company pricing.

THE TAXOL CASE

Consider the case of taxol, a leading anti-cancer drug. In January 1991, the National Cancer Institute licensed taxol to Bristol-Myers Squibb. In the Cooperative Research and Development Agreement (CRADA), NCI agreed to abandon its model "reasonable pricing" language. Instead, it used the following:

"NCI has a concern that there be a reasonable relationship between the pricing of Taxol, the public investment in Taxol research and development, and the health and safety needs of the public. Bristol-Myers Squibb acknowledges that concern, and agrees that these factors will be taken into account in establishing a fair market price for Taxol." This exhortatory phrasing did not exactly place NCI in a position to discipline Bristol-Myers Squibb's pricing of the drug.

Following a bizarre negotiation to set a reasonable price, Bristol-Myers Squibb markets Taxol at a wholesale price that is nearly 20 times its manufacturing cost. A single injection of Taxol can cost patients considerably more than $2,000—and treatment requires multiple injections.

That the contractual language was so weak is all the more remarkable because of the extraordinarily minor contribution that the company made to the development of the drug, although BMS would of course claim it has done important collateral research. NCI discovered, manufactured and tested Taxol in humans. BMS's only contribution to the New Drug Application (NDA) to the Food and Drug Administration was to provide 17 kilograms of Taxol to NCI and to process paperwork. The value of the 17 kilograms was probably less than $5 million. Bristol-Myers did not pay any fee to NCI in entering into the CRADA, and it does not pay royalties to the U.S. government on its billion dollar annual sales revenue from Taxol.

Bristol-Myers Squibb maintains exclusive rights over Taxol due to its control over the health registration data (clinical trial data used for regulatory approval of pharmaceutical drugs), which it gained as a result of the CRADA. The company does not have a patent on the drug, because it was invented by Federal researchers. Bristol-Myers Squibb is now leading a major effort—in the United States and around the world—to extend the period during which it maintains exclusive control over the data submitted to receive FDA approval. A National Economic Research Associates study found the consumer cost of an additional 2 years of Bristol-Myers market ex-

clusivity for Taxol will be $1.27 billion, including $288 million paid by Medicare. Some of those without insurance are simply unable to afford the drug. The cost of preventing generic competition throughout much of the rest of the world is to deny most patients access to the medicine altogether.

Though particularly stark, the Taxol case is not unique. Because the Federal Government is responsible for the resources leading to the invention of a very high percentage of the most important new drugs, especially anti-cancer drugs, the problem of government licensing is frequently posed. This is a consumer issue of the highest order of significance.

Where the government hands an annual billion-dollar revenue earner to a private company for a pittance, is it too much to ask the relevant Federal agency to enforce reasonable pricing requirements? Might an avenue of citizen challenge to the terms of the NIH-Bristol-Myers Squibb deal have changed the terms of the contract, saving consumers millions of dollars and perhaps saving lives?

THE PARTNERSHIP FOR A NEW GENERATION OF VEHICLES (PNGV)

The Partnership for a New Generation of Vehicles (PNGV) is a public/private partnership between seven Federal agencies and 20 Federal laboratories, and the big three automakers—General Motors, Ford and what is now Daimler Chrysler. According to the Department of Commerce, the PNGV "aims to strengthen America's competitiveness by developing technologies for a new generation of vehicles." The program was announced on September 29, 1993 by President Clinton, Vice President Gore and the CEOs of the domestic auto makers.

PNGV's main long term goal is to develop a "Supercar," which is described as "an environmentally friendly car with up to triple the fuel efficiency of today's midsize cars—without sacrificing affordability, performance, or safety." This could also be described as an effort to coordinate the transfer of property rights for federally funded research and development to the automotive industry. The agencies involved include NIST, DOD (US Army Tank Automotive Research, Development, and Engineering Center and the Advanced Research Projects Agency), DOE (various national laboratories), DOT (NHTSA, the Research and Special Projects Administration, FHA and Federal Transit Administration), EPA (the National Vehicle and Fuel Emissions Laboratory), NASA and NSF.

It is hard to imagine an industry less in need of government support for research than the highly capitalized auto industry, which is reporting record profits year after year. The government is supporting research that the industry would or should do on its own in response to market demands, or could easily be required to do in order to meet tougher environmental standards.

The program also poses the issue of the terms under which patents and other taxpayer-funded intellectual property are transferred to Ford, Chrysler, General Motors and other large firms. This poses the same problems of monopolistic or oligopolistic control over government-funded research as the biomedical research example, and, if any part of the program is deemed worthy of preservation, similar calls for remedies of nonexclusive licenses. The PNGV program is clouded by secrecy, with negotiations over these and other important issues undertaken in secret, with no public comment.

The structure of the PNGV program creates special anti-competitive problems. The program gives participants an effective exemption from antitrust laws, even though competition in research and development is more likely to yield innovation than bureaucratized collaborative arrangements such as the PNGV initiative.

History provides a clear warning against such arrangements. In the 1960's, the Justice Department filed suit against the automakers for product fixing—for refusing to introduce air quality enhancing technologies. It is instructive to review excerpts from the complaint in the case. It alleged that the U.S. automakers and their trade association had conspired "(a) to eliminate all competition among themselves in the research, development, manufacture and installation of motor vehicle air pollution control equipment; and (b) to eliminate competition in the purchase of patents and patent rights from other parties covering motor vehicle air pollution control equipment." The auto companies subsequently signed a consent decree that stipulated they would not engage in collusive behavior among themselves and their trade association. The Reagan administration released the car makers from the consent decree; and now the Clinton administration, acting as if the collusive history never occurred and was not known, has waived antitrust laws and assisted the automakers in resuming noncompetitive research and development.

Today, the PNGV initiative is serving as a smokescreen behind which the automakers hide to protect themselves from more stringent air quality standards. (Exacerbating the problem, the Green Scissors Coalition points out, is the fact that the

Department of Energy's expenditures on diesel vehicles directs funding into a highly polluting technology.) Deployment of existing technologies could dramatically enhance auto fuel efficiency and reduce greenhouse gas emissions, but the automakers choose not to make these technologies widely available. Notably, the PNGV program itself does not require the deployment in mass production of the technologies it seeks to develop. The leading innovators in fuel efficiency have been Toyota and Honda, which notably do not participate in the PNGV program. Progress from the PNGV participants only seems to come in response to new announcements from nonparticipants—again illustrating the importance of competition.

Why should the government waive antitrust laws and pay the highly profitable auto industry to collude on research that it could and should undertake on its own? What is the rationale for failing to extract guarantees that newly developed technologies will be deployed? Where are the procedural mechanisms to allow citizens to challenge this government-authorized and -funded corporate-welfare collusion? What are the paybacks to taxpayers for this program? Six years have gone into the program, and there is nothing to show for such taxpayer largesse.

SOLUTIONS

The PNGV is not the only example of a Federal research program that should be eliminated. Research and development programs in areas like fossil fuel (among them the clean coal technology program, and the Department of Energy's coal and petroleum R&D programs) and nuclear power (the Nuclear Energy Research Initiative) invest funds in support of highly capitalized industries to promote undesirable nonrenewable technologies. Such programs are not defensible.

More interesting questions arise in areas where the government is legitimately involved in the research and development sphere, such as in biomedical research. There are several potential ways to resolve the giveaway problem embedded in current policy.

One is to revitalize the Rickover proposal of immediate nonexclusive licensing, followed by the possibility of exclusive licensing if no party accepts a nonexclusive license. This arrangement would guarantee competition and keep prices down. If exclusive licensing proves necessary, in a Rickover-style scheme or otherwise, the license should be granted on the basis of an auction. The auction should consider factors such as: the strongest guarantees of low price marketing of the final product, buyer commitment to invest profits in research and development, and royalties to the government. The weight attached to these factors should perhaps vary according to the type of invention. For example, in the case of pharmaceuticals, reasonable pricing should take priority over royalty returns to the government.

Federal agencies should be able to adopt these policies on their own, but the recent history of cozy relationships between manufacturers, universities and Federal laboratories has led Federal agencies and universities alike to cut sweetheart deals that boost corporate profits while punishing consumers and failing to recoup government investments. Congressional action is needed, and citizens should be guaranteed procedural opportunities to challenge sweetheart arrangements that do not comport with statutory requirements.

BAILOUTS

The modern corporate bailout period began with the 1974 Lockheed bailout, escalated with the 1979 Chrysler bailout and soared with the gigantic savings-and-loan bailouts of the late 1980's and early 1990's.

These bailouts, of course, are generally doled out to large corporations and industries. When a family-owned restaurant fails, no government intervenes to stop it from going belly up. If a small factory can't pay its bills, it goes out of business. The bailout, a premier form of corporate welfare, is typically yet another market distortion against the interests of small and medium-sized businesses.

Bailouts are different from other corporate welfare categories in that they are ad hoc and unplanned. There is no ongoing government bailout program to be cancelled or reformed.

But there are lessons to draw from recent bailout experience that should inform Congressional action now and in the future.

First is the issue of payback. In the case of the Chrysler bailout, the Federal Government received warrants and ultimately earned a profit on its loans. In the case of the S&Ls, a special levy was assessed against the industry to pay some of the costs—although the overwhelming majority of the cost was borne by the taxpayers. If Congress determines in any particular case that a company or industry bailout is necessary, it should prioritize the issue of payback—assuring that, after the com-

pany or industry is nursed back to health, our government is paid in full, or as close to full as possible.

Second, monetary payback is not enough. Remember, by definition in a bailout context, the government is stepping in because private financial markets are not willing to invest in or make loans to the troubled corporate entity or entities. That is why the government is stepping in. And especially because the government is doing more than making a market-justified loan, it has a right to make additional nonmonetary demands, particularly demands designed to prevent the need for future bailouts.

In the case of the S&L bailout, consumer groups repeatedly urged Congress to require depository institutions, as a condition of the bailout, to carry notices in their monthly balance statements. These notices would have invited consumers to join democratically run, nonprofit, nonpartisan consumer groups that would advocate for their interests and provide an institutionalized scrutiny of S&Ls, banks and other depository institutions. These organizations would have been privately funded, voluntary and statewide. They would have operated at no cost to the taxpayer or to corporations, because their mail inserts (paid for by the consumer group) would have used the "extra" portion of the billing envelope, adding no postage costs to the S&Ls. These financial consumer groups would have functioned as an institutionalized early warning system, ringing alarm bells over emerging problems before they reached crisis phase. They remain a vital proposal for depository institutions, as does the proposal more generally for other industries and companies. At minimum, some variant of this proposal should be attached to every bailout, and where applicable, as in the case of the digital TV spectrum, to giveaways also.

Third, the S&L crisis was triggered in large part by industry deregulation, specifically the Reagan administration's decision to permit S&Ls to raise interest rates and to leave their area of competence (lending for housing) and venture into other uncharted, riskier waters. And it was caused, to some considerable extent, by S&L criminal activity. This experience should be an important cautionary note for corporate welfare opponents: deregulation, underregulation and nonregulation pave the way for bailouts, especially in the financial sector. Thus Congressional corporate welfare opponents should be looking very carefully, for example, at the nonregulated world of hedge funds, and not be satisfied with Treasury-proposed disclosure regulations. The perceived need for Federal Reserve intervention in the case of Long-Term Capital Management, and the possibility that losses to the firm could have been much more severe, highlights the potentially serious bailout possibilities that might be faced in the near future, absent newly imposed regulations.

Finally, the danger of creating too-big-to-fail institutions should make corporate welfare opponents advocates of strong antitrust policy (and a significantly enlarged budget for antitrust enforcement agencies), and supporters of existing restraints on the concentration of economic power. Thus, corporate welfare opponents should be leading opponents of HR 10, that would erase the line, established by the Glass-Steagall Act and the Bank Holding Company Act, which prevents common ownership of banks, insurance companies and securities firms. If HR 10 or some variant is enacted, the subsequent mergers in the financial industry will exacerbate the too-big-to-fail syndrome. The concern would be that permitting, say, an insurance company to fail would endanger the health of its conglomerate parent, which would in turn threaten a crisis of the entire financial sector, including taxpayer-insured banks. HR 10 would also function to effectively extend the Federal safety net to nonbank affiliates of federally insured banks. If a bank with a failing insurance affiliate makes bad loans in order bail out the insurance company, and then itself faces financial trouble as a result, Federal deposit insurance will be there to back up the bank.

That insurance comes cheap. In 1995, the Federal Deposit Insurance Corporation (FDIC) stopped collecting deposit insurance premiums from banks. Today, all banks, except for a handful of the most risk-prone, receive free insurance from the Federal Government. As a result, the bank insurance fund at FDIC has only about $32 billion on hand to cover all contingencies for 8,983 commercial banks with nearly $3 trillion of deposits. And should FDIC come up short when banks fail in an economic downturn, it can turn to the U.S. treasury. In 1991, with the bank insurance fund in the red, Congress voted to establish a $30 billion contingency fund at the Treasury Department to be used in the event that FDIC ran out of deposit insurance money.

An additional, urgent note on the S&L looters: they're back. A Federal judge in California has ruled that Congress broke the government's contract with Glendale Federal Bank when capital based on goodwill was outlawed in the 1989 savings and loan reform legislation. The court awarded the corporations $908.9 million. There are some 125 suits pending with claims similar to those of Glendale. If the Glendale

case is a precedent, the government could lose another $30 billion on top of the nearly $500 billion in principal and interest that has already been obligated in the S&L bailout, with some of the new corporate welfare benefits conferred, as the New York Times has pointed out, on some of the more notorious figures in the savings and loan debacle, including some who are serving prison terms. The 1989 reform legislation properly insisted that failed institutions be closed and that remaining S&Ls have adequate capital—actual capital, not the fake capital represented by something as vague as goodwill (albeit the ethereal capital which the bank regulators had agreed to recognize).

The Glendale case presents two problems. One is how vigorously the Clinton administration Justice Department is contesting the Glendale line of cases. This question is a matter for Congressional investigation, and I have asked Banking Committee Chairman Leach to hold hearings on this and related issues. The second issue is how the Glendale claims will be paid, if in fact courts hold that they must be. The New York Times reports that a provision was inserted into last fall's omnibus appropriations bill—without hearings or open debate, in yet another example of how corporate welfare giveaways are bound up with anti-democratic procedures—that was designed to allay fears of lobbyists that the Treasury Department might refuse to pay or that the industry might end up being saddled with the costs through a special assessment. This provision must be repealed, and it should be promptly replaced with legislation that assesses the special fee the industry opposes. The 1989 reform effort, including the implementation of strict capital rules and the elimination of worthless imitation capital like goodwill restored confidence in the savings and loan industry, and this has been a sizeable government benefit, courtesy of the taxpayers, to the entire financial industry and its shareholders, and particularly to the thrift sector. It would be wrong for the taxpayers, who have borne the brunt of the savings and loan bailout, to now be required to pay the judgments of these goodwill suits.

A final note on bailouts: The normal course for a company that cannot pay its bills is not to turn to the government, but to enter into Chapter 11, temporary bankruptcy. Since the 1979 reforms to the bankruptcy laws, large corporations have increasingly used bankruptcy as a refuge from large civil liability claims. A.H. Robins, Johns Manville, Union Carbide and Dow Corning are among the companies which have followed this route, and Big Tobacco has waved the threat of bankruptcy to strengthen its bargaining position in lawsuits and in the legislative process. These companies have manipulated the bankruptcy code to force victims of dangerous products or dangerous production processes to absorb some substantial portion of the costs of their injuries and to separate future income streams from liability. This manipulation is particularly outrageous because it involves not financial creditors who misassessed the viability of a bankrupt company's operation, but innocent victims of corporate violence. There is, in the process, no government transfer to private corporations, but it is the law which permits these companies to victimize consumers twice, first by injuring them and secondly by denying them adequate compensation through the bankruptcy ploy. As this Congress debates bankruptcy law revisions to crack down on the largely illusory problem of citizens abusing the bankruptcy process, it should instead direct its attention to corporate bankruptcy abuse, and reform the bankruptcy laws to eliminate this callous form of corporate welfare. The recent U.S. Supreme Court decision in Fibreboard should work to diminish corporations' ability to abuse bankruptcy procedures, but legislative revisions are needed as well.

CORPORATE TAX EXPENDITURES

Federal corporate tax expenditures—special exclusions, exemptions, deductions, credits, deferrals or tax rates—totaled more than $76 billion in fiscal year 1999, according to conservative estimates by the Office of Management and Budget. For the 5-year period 2000-2004, the government will spend more than $394 billion on corporate tax subsidies.

The notion of tax "expenditure" expresses the idea that revenue losses due to preferential tax provisions such as special exclusions, exemptions, deductions, credits, deferrals or tax rates have the same budgetary implication as a giveaway of government resources. When the government does not collect certain taxes due to tax expenditures, it is spending money. And when the government fails to collect taxes from corporations due to various legal preferences, it is subsidizing those companies as surely as if it were making direct payments to them. The issue here is not tax rates, but tax preferences for particular categories of corporations or corporate behavior.

The crusade against corporate welfare cannot exclude corporate tax expenditures any more than it can exclude direct government subsidies to corporations.

The special insidiousness of corporate tax expenditures is that they are hidden subsidies. They do not appear as budget expenditures, and because they represent money not collected (rather than payments doled out) they do not generate even the felt-outrage of off-budget giveaways. Generally, once they have been included in the Internal Revenue Code, corporate tax expenditures remain on the books unless Congress affirmatively acts to remove them. This situation contrasts to on-budget programs, which require continuing Congressional approval and authorizations to continue, and therefore are automatically subject to ongoing Congressional review, if not action.

The 1974 Budget Act requires that a list of tax expenditures, corporate and individual, be included in the budget. This budgetary requirement at least makes it possible to identify the cost of most corporate tax expenditures, and it is a model for what should be done in other corporate welfare areas, a point to which I return later.

Many of the corporate tax breaks merit special attention because they actually encourage undesirable activity, including environmentally destructive activity. The oil and gas industry, for example, wins major subsidies through the tax code. When the need to encourage a transition to renewable fuels is clear, why does the Internal Revenue Code encourage more aggressive oil drilling, with its associated environmental harms, than even market demand would induce? What rationale is there for artificially biasing the market against conservation and efficiency? Tax escapes and credits to the oil and gas industry take more than $500 million from taxpayers annually.

Similarly, several tax rules encourage wanton mining, beyond that which is justified even on market terms, by providing tax incentives for mining operations. The effect is to bias the market against recycling interests. The percentage depletion allowance for mining allows mining companies to deduct a certain percentage from their gross income that exceed the actual loss of value. (These vary by mineral, with sulphur, uranium and lead given the high percentage of 22 percent.) Rules that allow immediate expensing of exploration and development, rather than a write-off as mines are depleted, plus other mining tax escapes, cost the Treasury an estimated $300 million a year.

The origin of many of the corporate tax loopholes is the stuff of Washington legend. It represents one of the worst distortions of our political democracy. Well-heeled lobbyists, who spin through the revolving door between government and K Street and represent high-donor corporate interests, facilitate backroom deals that save their clients millions (or billions). The taxpayers, of course, lose commensurate amounts.

To take one recent egregious example, a conference committee, reportedly acting in response to instructions from then-Speaker Newt Gingrich and Senate Majority Leader Trent Lott, inserted a tax break—not included in the previous House or Senate versions—in the 1997 tax bill that provided special benefits for Amway Corporation and a few others. The tax break came a few months after Amway founder Richard De Vos and his wife Helen De Vos each gave half million dollar soft money contributions to the Republican National Committee. The revision to Internal Revenue Code Section 1123 applies to two Amway affiliates and four other companies, and will cost taxpayers $19 million over 10 years, according to the Joint Committee on Taxation.

Because the Section 1123 revision was so narrowly targeted, it is possible to infer the strong likelihood of the cause-and-effect relationship between the contributions and the tax benefit. It is also possible to directly identify one of the main beneficiaries.

The Amway case is typical in the shady fashion in which it transpired. It is somewhat unusual to be able to identify key beneficiaries.

This example highlights why, as important as the reporting requirement of the 1974 Budget Act is, much more disclosure is required in the area of corporate tax expenditures.

One critical issue is: which companies are benefiting from corporate tax expenditures? OMB should be required to compile a list of the top 50 beneficiaries of each corporate tax expenditure.

A second critical issue involves the intended effect of each tax expenditure. Aside from serving as payoffs to politically well-connected companies, tax expenditures are designed to encouraged specific kinds of behavior. Do they do so? For example, the Work Opportunity Tax Credit is designed to encourage firms to hire certain groups of people (such as recent welfare or food stamp recipients) for low-skilled jobs. The FY 1999 cost of this corporate tax expenditure is $285 million. But it may be that

the tax credit also provides an incentive for churning of these employees, so that employers can repeatedly recoup the tax incentive. (Employers can claim a credit of up to $2,400 for the first $6,000 of a workers earnings; workers must be employed for at least 400 hours for the credit to be claimed.) The tax credit may also provide an incentive for employers to replace existing employees with new employees from the targeted groups. Determining whether or not these unintended and undesirable outcomes occur requires more data gathering and close Congressional scrutiny. And because of the nature of tax expenditures—they are effectively "administered" by the IRS rather than agencies with expertise in the relevant field-scrutiny will come from Congress, or not at all.

One way to facilitate that scrutiny is to have sunset provisions for corporate tax expenditures (as for other corporate welfare programs), which would require Congressional renewal of tax breaks. The Work Opportunity Tax Credit is indeed scheduled to be phased out by 2004, but an unproven tax expenditure of this sort should have a shorter first life, say 2 years. At the least, a short initial period for tax expenditures would allow testing and review of whether they achieved their desired effects, and whether they had any harmful consequences. Generally, and without regard to the Work Opportunity Tax Credit, such a standard seems particularly appropriate given the harsh time limitations applied to welfare for poor people in the 1996 "welfare reforms.'a

Another area deserving of immediate and priority Congressional investigation is the apparent underpayment of Federal income tax by foreign corporations. A recent GAO report concluded that foreign-controlled corporations doing business in the United States pay approximately half the taxes that U.S. companies pay. The report found that the approximately 15,000 large U.S. companies paid an average of $8.1 million in Federal income taxes in 1995. The approximately 2,700 large foreign-controlled in the United States paid an average of $4.2 million in 1995. Foreign-controlled companies paid taxes as a percentage of sales at just over half the rate of U.S. companies. Senator Byron Dorgan and Citizens for Tax Justice attribute the differential payments in large part to manipulative transfer pricing by foreign multinationals—this practice of dubious legality involves paying too little or charging too much in paper transactions between U.S. and foreign affiliates, so that the income of the U.S. affiliate is artificially lowered. Citizens for Tax Justice points out that the growing number of foreign corporate takeovers of U.S. companies (Daimler's purchase of Chrysler, Deutche Bank's takeover of Bankers Trust and BP's buyout of Amoco and possibly Arco prominent among them) may accentuate the tax avoidance problem. If a legal form of tax avoidance, transfer pricing constitutes a form of corporate welfare. If an illegal tax evasion, then it constitutes a form of corporate wrongdoing outside of the welfare arena, still in need of elimination.

A second, growing source of multinational tax avoidance, according to Citizens for Tax Justice, involves financial transactions. In one, newly invented shell game, companies pay interest to nontaxable offshore subsidiaries and deduct the interest payments against their worldwide taxable income. But they claim an exemption from U.S. anti-tax haven laws by contending that, for U.S. tax purposes, the interest earned by the offshore subsidiaries does not exist. The Treasury Department has tried to clamp down on this tax-avoidance scheme, but has been blocked by Congress.

Because so many corporate tax expenditures have been identified in official administration and congressional publications, this is a large area in which it would be easy for Congress to act to eliminate a huge category of corporate welfare in one fell swoop. Congress should take prompt action in this regard. But because it is almost inevitable that corporate tax expenditures would return to the Code, it is vital also that Congress enact procedural reforms to control future corporate tax expenditures, with reporting of top beneficiaries and sunset provisions atop the list.

INSURANCE SCHEMES, FORMAL AND DE FACTO

One of the overriding trends in corporate welfare in recent decades has been the socialization of risk. In making risky investments—some socially desirable, some not—and sometimes undertaking reckless activities, investors are attracted to the prospect of high returns on investment. But corporations are increasingly brazen about foisting the risk of failure—the very reason for high returns—on taxpayers and consumers.

The drive to socialize risk while privatizing profit is evident in the corporate drive for tort deform, the tobacco companies' effort in recent years to limit their civil liability, and in the vital importance that business attaches to government insurance schemes, formal and de facto. Among these are: the International Monetary Fund,

the Exchange Stabilization Fund (ESF) and the insurance scheme of the Price Anderson Act.

Given the existence of a thriving private insurance market, there should be some skepticism attached to claims of necessity of any public insurance scheme. Certainly, there are cases where public insurance programs, voluntary or involuntary, may be merited. Where there is a public interest in guaranteeing industry survival and stability, for example, public insurance schemes may be sound public policy, especially where there is a likelihood of government bailout in the event of major industry liability or failure. But even in these cases, there should be a strong presumption of full-cost recovery and the imposition of reciprocal obligations from the insured, upon whom significant benefits (e.g., public confidence) are conferred by public insurance.

Where there is a viable alternative private market, and no clear public interest in industry protection, hard questions should be asked about the appropriateness of public insurance: What is the need for a public insurance alternative in such situations? Does the government do more than provide a subsidized service? Does the government serve as an insurer of last resort—and if so, is this a beneficial public policy or one that merely provides an additional welfare support to other insurers? What public interest is served by government involvement in this area of insurance provision? Does it encourage imprudent investments and actions? Why should the government charge less than market rates for the insurance it provides? Is it a lead in to later government bailouts, as has been the case with banks?

THE IMF AND THE ESF

The IMF is an international financial agency, located in Washington, DC, that helps debtor countries overcome balance of payments deficits. It makes loans to countries, conditioned on those countries adopting a policy package known as "structural adjustment." In recent years, the IMF has expanded its traditional function to function as a de facto insurer of the global financial system, making massive loans to countries that suffer from sudden withdrawals of international capital.

The Exchange Stabilization Fund is an off-budget account controlled by the Secretary of Treasury. Congress established it to enable the Secretary to defend the dollar in the event it lost an excessive amount of its value relative to other leading currencies. In recent years, the Secretary has made very large draws on the ESF to fund U.S. participation in bailouts of countries that are suffering from financial meltdowns.

The vast shifts in international financial capital which have characterized the global financial markets in the last decade have resulted in episodic crises when currency traders, operating in herd-like fashion, suddenly act to pull money out of an economy. These are typically national economies in which there has been a recent, prior infusion of foreign capital in a speculative frenzy. In the last 5 years, the most severe of these crises have occurred in Mexico, South Korea, Thailand, Indonesia and Russia.

In simple terms, the selloff of a country's currency forces its devaluation, making it relatively more expensive to pay debts owed in foreign currencies, and leaving the country with massive debt payment obligations that it is unable to meet.

When individuals are unable to pay their debts, of course, typically the debtor and the creditor share the pain. Through bankruptcy or otherwise, a process of workout occurs, with the creditors receiving less than full repayment. This equitably distributes responsibility for overborrowing to the debtor and to the creditor for imprudent lending.

No such thing happens in international financial markets. When countries are suddenly unable to meet their payment obligations, the IMF rushes in. It provides money to the borrower, often in packages which include large contributions from the ESF. This money is used to repay creditors, letting them off the hook. The pain is borne exclusively by the borrowing country, which must accept recessionary austerity conditions (including tax increases, harsh budget cuts and government layoffs) from the IMF as a condition for the bailout of its private creditors.

Of course, the story varies from bailout to bailout, but this is the essential process.

In 1995, the Clinton administration orchestrated a nearly $50 billion bailout of the Wall Street interests which stood to lose billions with the Mexican peso devaluation. The centerpiece of the bailout was $20 billion in currency swaps, loans and loan guarantees from the ESF. The IMF (in which the U.S. maintains an 18 percent share) contributed almost $18 billion to the bailout. Not all of the $50 billion was used, and what was used was paid back, but that does not affect the character of the administration's action as providing after-the-fact insurance.

The peso devaluation was necessitated by Mexico's chronic balance of payments deficit, but the severity of the devaluation and subsequent crisis stemmed from the Mexican government's long maintenance of an overvalued peso. Fully aware of the peso's overvaluation, foreign lenders and short-term investors continued to flock to the Mexican market because of its high, 18 percent interest rates. When the inevitable devaluation occurred, investors pulled out en masse. Rather than letting Wall Street accept responsibility for irresponsible lending, the Clinton administration, with the help of the IMF, orchestrated the bailout.

This massive commitment of taxpayer funds, it should be noted, came without Congressional approval. Instead, to forestall Congressional objections, the administration sought and received the acquiescence of then-Speaker Newt Gingrich and then-Majority Leader Dole.

The Mexico crisis repeated itself in Asia in 1997. Foreign investors and lenders poured money into the Asian tigers to take advantage of very high interest rates and returns, and then withdrew in herdlike fashion when the bubble burst. With South Korea, Thailand, the Philippines, Malaysia and Indonesia unable to pay back foreign loans (which suddenly appeared more expensive following devaluation), the IMF took the lead role in organizing bailouts of creditors and investors.

IMF loans injected money into the Asian economies to enable them to pay back their foreign debts. The amounts at stake were not insignificant:

U.S. banks' exposure in South Korea was estimated to total more than $10 billion. BankAmerica alone reportedly had more than $3 billion in outstanding loans to South Korean firms, and Citicorp more than $2 billion. The other major U.S. banks with outstanding loans to South Korea included J.P. Morgan, Bankers Trust, the Bank of New York and Chase Manhattan. Instead of eating their losses, the banks which made bad loans in South Korea and elsewhere in Asia received the money owed them, in some cases over modestly extended repayment periods.

The IMF/ESF money goes in and goes out. The banks get their money, the countries contract new debts to the IMF and get stuck with the IMF austerity demands. These recessionary structural adjustment demands have had tragic consequences throughout Asia. In South Korea, the unemployment rate has skyrocketed from under 3 percent to approaching 10 percent. In Indonesia, economic contraction has eradicated the income growth of the last three decades, with poverty rates soaring from 11 to 40 percent.

There is still more. Among the conditions imposed by the IMF and Rubin on the Asian countries are requirements that they open up their economies further to foreign investors. (These demands relate to foreign "direct investment" in factories, agriculture and service operations ranging from tourism to banks, not just "portfolio" investment in stocks, bonds and currency.) Treasury Secretary Robert Rubin specifically and successfully pressured South Korea to open up its financial sector.

As a result, the very U.S. banks which contributed to South Korea's crisis and received a U.S. taxpayer bailout now stand to buy up lucrative sectors of the South Korean economy. Similar demands have successfully been made in other troubled Asian countries.

History repeated itself a few months later, this time as farce, in Russia. Despite a widespread understanding that Russia had fallen into the grips of an unmitigated criminal capitalism, foreign capital poured into the country, at some points seeking to take advantage of interest rates that hit 100 percent. No one could have doubted the risk of lending to Russia. But when the inevitable collapse came, the IMF—prodded by the Clinton administration—was there with a bailout package. In July, the IMF signed off on a $22 billion bailout. The IMF released $4 billion dollars into the country immediately. That money went to pay back domestic and foreign creditors; with the rest apparently stolen. It served absolutely no purpose but to subsidize the wealthy in and outside of Russia, all of whom had gambled with their investments in an effort to take advantage of the extraordinary interest offered. In August, Russian defaulted on its loans, and the IMF suspended the bailout.

Not only is the double subsidy to the Big Banks unjust, it helps perpetuate the very problem it is designed to remedy. When the IMF and the Treasury Department bail out the banks—in effect providing free insurance—it sends a message: "Don't worry about the downside of your international loans. As long as enough banks get in too deep, we'll rescue you at the end of the day." That encourages more reckless bank lending, since the banks can earn high interest on high risk loans without having to absorb losses. While consumers don't benefit from the higher bank profits, they frequently find themselves hit with higher charges when banks suffer losses from reckless lending that are not fully bailed out.

IMF policy, and even U.S. administration policy at and to the Fund, is virtually immune to Congressional influence. With strong prodding from the Treasury Department, the IMF has appropriated for itself the role of a public, no-charge insurer

of international currency markets. At the same time, a power grab by the Treasury Department has converted the ESF into a similar no-charge insurer for Wall Street, with ESF monies used for bailout purposes that exceed its legislated purpose.

These are the regulators of the global financial system, operating without accountability, bailing out financial interests, wreaking havoc on the economies of much of the world's population. Where is the "market discipline" that the IMF so desires to see enforced against poor countries? If investors and lenders make high-return investments knowing the high interest rates represent a risk premium, when the risk is realized, why should they then be able to collect on their investments, care of the IMF and ESF?

Working out a sensible system of international financial regulation, which avoids Wall Street bailouts and the unfairly punishing of debtor countries is a complicated matter. It is clear, however, that the IMF and the ESF have to be reined in. Indeed, even the Wall Street Journal and Wall Street conservatives such as George Schultz, William Simon and Walter Wriston have suggested the IMF's powers should be restricted or the Fund abolished altogether.

That should mean, first, ensuring that the IMF receives no new funding. Having received $90 billion from all nations last year ($18 billion from the United States), the Fund is now seeking funding for its Extended Structural Adjustment Facility (ESAF) and other initiatives, either through an appropriation or through Congressional authorization of IMF gold sales. Congress should deny this funding, instead insisting that IMF gold sales be used only to provide immediate and direct debt cancellation for poor countries. This will provide real relief for poor countries, rather than expand the IMF's power.

Second, Congressional authorization should be required for ESF expenditures of larger than $100 million. Representative Bernard Sanders has introduced legislation to require a Congressional vote prior to ESF expenditures over a specified amount.

NUCLEAR INSURANCE: THE PRICE-ANDERSON ACT

The nuclear industry may be the most subsidized in U.S. history. It is completely a product of U.S. government research and development. Having emerged from massive government investments, the nuclear industry has never cut its umbilical cord tie to the government.

One critical, ongoing support for the industry is the Price-Anderson Indemnity Act, which limits the liability of the nuclear industry (both plant operators, and suppliers and vendors) in the event of a major nuclear accident. Under Price-Anderson, each utility is required to maintain $200 million in liability insurance per reactor. If claims following an accident exceed that amount, all other nuclear operators are required to pay up to $83.9 million for each reactor they operate. Under the terms of Price-Anderson, neither the owner of a unit which has a major accident nor the entire utility can be held liable for more than these sums. As of August 1998, this system capped insurance coverage for any accident at $9.43 billion.

When the Price-Anderson Act was adopted in 1957, at the dawn of the commercial nuclear industry, "the Act was intended to overcome reluctance to participate [in the transition to private nuclear industry] by the nascent industry worried by the possibility of catastrophic, uninsured claims resulting from a large nuclear accident." Leaving aside for the moment the ecological and economic risks which should disqualify continuation of, let alone support for, the nuclear industry, assume that such a rationale was defensible at the time, as the government tried to promote development of an energy source which many believed would be safe, cheap and abundant.

But watch how the rationalization perpetuates itself. "By 1965," the NRC reports, "when the first 10-year extension of the Act was being considered, a handful of nuclear power reactors was coming into operation, and the nuclear industry considered itself on the verge of expanding into large-scale nuclear power generation. Thus, the need for continued operation of the Price-Anderson system for the forthcoming 10 years was believed to be critical for the unrestricted development of nuclear power."

A decade later, when another extension of the Act was being considered, the industry was more buoyantly optimistic than it ever had been or would be again. "With dozens of plants in operation or under construction and with hundreds more being contemplated to be in operation by the end of the century," the industry urged that the Act be extended rapidly so that "any uncertainty about extension would not disrupt nuclear power development," says the NRC.

Now the industry is in decline. There have been no new orders for nuclear plants for the past 25 years, and aging plants are beginning to be shuttered. The original rationale for the Act is no longer plausible. But nothing has changed with respect to Price Anderson. Indeed, the NRC argues, "Given industry perception of the continuing need for Price-Anderson, and in view of the lack of new orders in plants,

the situation is in some respects similar to what it was when Congress saw the need for enactment of the original Price-Anderson Act.''

(In one way, things are worse than they were in 1957: with nuclear plants closing due to aging, safety concerns, inefficiency and license expiration, the Price-Anderson liability cap will progressively decline in future years. If the upper end of nuclear plant closing projections occurs, available insurance funds could shrink to $4.5 billion in 2013.)

The industry has gone through a full life cycle, but somehow it never outgrew the need for a Federal insurance scheme and liability cap. The result has been a massive subsidy to nuclear power companies. Using the NRC's conservative numbers for the upper limit on a worst-case scenario accident and on the probability of such an accident occurring, Professors Jeffrey Dubin and Geoffrey Rothwell estimated the cumulative Price-Anderson subsidy to the nuclear industry through 1988 to be $111 billion in 1985 dollars. This estimate is based on NRC data on the cost of worst-case accidents—data which is conservative because it does not include health effects.

If, again, we leave aside the demerits of nuclear power, there could be justification for a Federal scheme to promote risk sharing in a context which poses a (hypothetically) very small chance of an extremely large loss. (It should be emphasized, however, that this is exactly the situation for which the private insurance and reinsurance markets are designed.) But there is no justification for combining such a scheme with an overall liability cap.

The $9.4 billion liability is nowhere near sufficient to pay for the human health and property damages that could result from a nuclear meltdown. Nuclear Regulatory Commission studies have estimated costs in a worst-case scenario at more than $300 billion for a single catastrophe.

The nuclear industry's real insurance program is not the $9.4 billion scheme of Price-Anderson, but the free insurance provided by the public. In the event of a catastrophic accident, after the $9.4 billion was spent, it is the Federal Government that would inevitably cover the costs—with some costs probably absorbed by victims who have their injuries compounded by inadequate compensation.

Price-Anderson is a textbook example of the hybrid insurance-liability cap program that should be prohibited per se.

''Many nuclear suppliers express the view that without Price-Anderson coverage, they would not participate in the nuclear industry,'' reports the NRC. If an industry which has benefited from massive government research and development and other subsidies for more than four decades, and which creates staggering, environmentally dangerous waste disposal problems and poses enormous risks to human health, cannot survive without government support, then it should not survive. The nuclear industry cannot meet the market insurance test and, with substitute energy sources available, it is not needed. The Price Anderson Act expires in 2002. If it is not repealed before then, it should not be renewed. If nuclear facilities close as a result, well, occasionally at least, corporate America should be subjected to its widely touted rigors of a free market.

GOVERNMENT SPONSORED ENTERPRISES

Government sponsored enterprises (GSEs) are stealth recipients of corporate welfare. Instead of cash or Federal tax subsidies, GSEs like Fannie Mae and Freddie Mac receive their government largesse in the less obvious form of credit enhancements.

Thanks to their extensive links to the Federal Government, Fannie and Freddie borrow money in the markets at almost the same rate as the U.S. Treasury, something that no competitor can come close to matching.

Like other GSEs, much of the risk of these housing finance enterprises remains with the Federal Government while the profits flow to private shareholders.

It is true that the secondary market operations of these GSEs provide an important service by improving access to mortgage credit by home buyers and stabilizing the mortgage market. The GSEs obtain funds from the bond markets and acquire mortgages from local lenders. The process ensures that home buyers can tap into the nation's savings pool for mortgage financing.

Could these functions be carried out without government subsidy? Could private corporations—without links to the government and without corporate welfare—perform the same functions? These are questions meriting close Congressional scrutiny.

The key to Fannie and Freddie's phenomenal profits and soaring stock values is the financial market's perception that there is an implicit government guarantee behind the obligations of these corporations.

There are good reasons for the financial market's belief that the U.S. Treasury and the taxpayers would be the fall guys in the event of a default. Here are some of the GSEs links to the Federal Government:

- Fannie and Freddie each have a contingency fund of $2.25 billion that can be drawn from the U. S. Treasury.
- Their securities are government securities for the purposes of the Securities Exchange Act of 1934.
- Their securities serve as eligible collateral for Federal Reserve banks' discount loans.
- The securities are exempt from registration under the Securities Act of 1933.
- The Secretary of the Treasury approves the issues.
- The Federal Reserve is the fiscal agent for the issues.
- Their obligations are eligible for unlimited investments by national banks and state bank members of the Federal Reserve as well as by federally insured thrifts.

Both Fannie and Freddie are exempt from local and state taxes—another benefit that clearly falls under the rubric of corporate welfare. (Even when the District of Columbia was struggling on the edge of bankruptcy, Fannie Mae refused to cough up a dollar in lieu of local income taxes)

There are varying opinions about how much these links, and resulting savings on borrowings, mean to Fannie and Freddie. Fannie Mae Chairman and CEO Franklin Raines concedes there are "benefits" (he prefers the word "benefits" to "subsidies"), but does not assign a dollar figure to the government ties.

However, the Congressional Budget Office (CBO) conducted an extensive study of Fannie and Freddie entitled "Assessing the Public Costs and Benefits of Fannie Mae and Freddie Mac." CBO estimated that the credit enhancement stemming from the government links was at least $6.5 billion in 1995.

According to CBO, Fannie and Freddie pass only part of that subsidy on to home buyers—about $4.4 billion—with the remainder of the credit enhancement subsidy pocketed by private shareholders, the corporations' executives and lobbyists. In other words, for every $2 delivered to home buyers, Fannie and Freddie take $l of the subsidy for themselves.

CBO estimates that in 1995, about 40 percent of the of the earnings of Fannie and Freddie could be traced to the benefits of their government-sponsored status.

These corporations have prospered under their GSE status and credit enhancement subsidies. Fannie Mae's stock appreciated 1,053 percent between 1989 and 1998. Freddie's stock appreciation was even greater, 1,260 percent. Sixteen years ago, Fannie Mae had a market value of $500 million. Today, the corporation is worth $70 billion.

In the process, Fannie and Freddie have become the dominant force in the housing finance market.

It is obvious that some of the subsidy derived from their GSE status is being used, not for home buyers, but to increase corporate power and control over all facets of the mortgage business.

Will this growing duopoly enjoyed by Fannie and Freddie stifle competition by private companies—competition that might reduce costs and encourage innovation in a variety of mortgage products?

Not only stockholders, but officials of Fannie Mae and Freddie Mac are enriched by the subsidy.

In 1997, for example, Jim Johnson, Fannie Mae's chairman, received $5,441,232 in salary, bonuses, stock options and other compensation. His predecessor walked away with a whopping severance package worth more than $20 million. Lawrence Small, President and CEO, received salary, bonuses and stock options of $2,948,751 in 1997. Jamie Gorelick, after leaving the Justice Department as Deputy Attorney General in May 1997, was the recipient of $1,850,993 in salary, bonuses and stock options as Vice Chair of Fannie Mae during the last 8 months of the year. She had no previous experience in housing finance.

The directors and officers of Fannie and Freddie have long enjoyed lucrative stock options. At the end of 1995, according to the CBO, executive officers and directors of Fannie Mae owned 1.6 million shares of the corporation. In Freddie Mac's case, CBO said executive officers and directors owned 695,000 shares of their corporation. In addition, the compensation agreements with officers of both corporations include generous options on hundreds of thousands of additional shares worth millions of dollars.

All of the Government Sponsored Enterprises are huge issuers of debt. Fannie and Freddie along with two other GSEs—the Federal Home Loan Bank System and the Farm Credit System—issued $1.62 trillion of debt during the first quarter of this year.

The Federal Home Loan Bank System has been under fire from the Treasury Department for its borrowing practices. The FHLB System has used its ability as a GSE to borrow cheaply and engage in arbitrage by making investments in non-housing related investments.

But the champion of the arbitrage games among the GSEs has to be Farmer Mac, the newest addition to the rank of Government Sponsored Enterprises. The General Accounting Office reports that Farmer Mac holds $1.18 billion of investments unrelated to its agricultural finance mission—or 61 percent of its assets.

House Banking Committee Chairman Jim Leach calls it "unconscionable" for a government sponsored enterprise to have more than three-fifths of its assets in non-mission related activities.

"When a governmentally privileged institution, that is established to serve farmers, abuses its status by investing disproportionately in arbitraged financial investments rather than agricultural loans, the Treasury and the Congress have an obligation to review its management practices," Mr. Leach says.

Chairman Leach is right about Farmer Mac. But Farmer Mac is but one small corner of the GSE story, particularly compared to the mammoth operations like Fannie and Freddie. All of these GSEs enjoy a special status because of their links to the Federal Government—they all enjoy benefits because of the market's perception that the U. S. Treasury and the taxpayers stand behind their obligations—a fail-safe status that leaves the Federal Government with the risk and the shareholders and the GSE executives with the profits.

The Congress should undertake a top-to-bottom review of all the Government Sponsored Enterprises. Are these hybrid half government, half private entities needed to meet credit needs? How well do they meet their statutory missions in specific sectors? And how much of their operations are devoted, not to their missions, but to playing the market in outlandish and unneeded arbitrage games? How much of their subsidy is used to benefit consumers, and how much is siphoned into shareholder profits and bloated executive compensation arrangements? Are existing capital standards adequate?

Addressing these problems will require confronting the familiar issue of corporate welfare beneficiaries' political influence. Some of the GSE subsidies intended to lower costs for home buyers are being diverted to build political and lobbying power designed to make it difficult, if not impossible, for the Congress to provide (or for the public to demand) proper oversight or regulatory improvements which would protect the public, increase support for affordable housing or ensure open competition in the mortgage market.

A report by the Campaign Reform Project reveals that Fannie and Freddie were some of the largest political soft money donors—more than $900,000 in the 1997-1998 election cycle. This is in addition to contributions by key employees.

Many of Washington's premier law firms show up on the GSEs' list of lobbyists along with former Members of Congress like Senator Steve Symms, Representative Vin Weber and Representative Tom Downey. The lobbying lists have included Ken Duberstein, former chief of staff to President Reagan, Nicholas Calio, President Bush's Congressional liaison and Michael Boland, former aide to Senate Majority Leader Trent Lott.

STATE AND LOCAL CORPORATE WELFARE

State and local corporate welfare is a problem that involves local, county and state governments and government agencies, but it is a national problem, requiring debate, investigation and solutions at the national, as well as state and local, level.

It is a national problem because it is predicated on large corporations pitting states against each other in bidding contests that are structurally biased in favor of Big Business. It is also a national problem, at least in part, by dint of the fact that it occurs in almost every state; an attached appendix highlights state and local corporate welfare abuses in state after state.

A Congressional initiative to highlight and address the corporate welfare system must direct attention to state and local corporate welfare because of this problem, and also because nothing frames the debate as well as state and local corporate welfare. Debate over Federal corporate welfare tends to focus on Federal programs, rather than the corporate beneficiaries—and that tends to turn corporate welfare debates into policy discussions no different than other policy controversies. Conflicts over state and local corporate welfare inevitably focus on the corporate beneficiaries, which draws the public's attention. The raw character of state and local corporate welfare—the brazen threats to move, the drain on funding for schools and essential state and local services—rightfully raises the public's ire.

For strategic as well as substantive reasons, a sustained and detailed focus on state and local corporate welfare can serve as a wedge to break open the entire national corporate welfare budget to public scrutiny and as a visceral issue around which a citizen mobilization on corporate welfare can form.

THE TOLEDO SHAKEDOWN AND EMINENT DOMAIN ABUSE

In Toledo, DaimlerChrysler has brought a frightened and financially strapped city to its knees. Desperate to keep a Jeep plant in the city, Toledo showered a $300 million local, state and Federal subsidy package on the multinational to support company plant expansion plans. The package includes a property exemption for 10 years, transfer of free land, including site preparation, transfer of environmental liability from DaimlerChrysler to the city and assorted other corporate welfare handouts. All of this is offered in exchange for a Jeep facilities expansion plan that is expected to result in a reduction of Jeep jobs from the current 5,600 to 4,900 (DaimlerChrysler's public claim) or 4,200 (the level the company specifies it will try to preserve in an unenforceable provision in its agreement with Toledo) or something much lower (a likely result based on United Auto Worker estimates and recent layoffs at the plant).

The Jeep agreement is remarkable, as are many of the special state and local corporate welfare deals, for being so poorly drafted from the city's point of view, so one-sided and tilted in favor of the corporate beneficiary. There is virtually no binding reciprocal obligation on DaimlerChrysler in the agreement—to create jobs, maintain a certain job level or to agree to set wage levels or working conditions. In exchange for no binding commitments and no share of the profits, Toledo has agreed to put up huge sums of money, much of it borrowed.

The most outrageous element of Toledo's Jeep deal is that it requires the displacement of a community near the plant. As it turns out from DaimlerChrysler's plans, the company does not even genuinely intend to use the land that the city will transfer to it from 83 homeowners. In its public explanations, Jeep identifies the community's parcel as a potential truck waiting area; but in its map, the area is to be used for landscaping—a truck waiting area is designated for another parcel of land. Nonetheless, what DaimlerChrysler wants, it is apparently eager to take.

So, threatening community residents that it would condemn the entire neighborhood, the City offered to buy their homes. Residents first learned they would be thrown out of their homes and their neighborhood bulldozed not from city officials, but from the Blade, Toledo's daily newspaper. We believe the low-ball efforts violated the Federal Uniform Relocation Act, which requires compensation sufficient to enable displaced people to buy comparable homes or establish businesses in similar or better neighborhoods. Many Toledo residents accepted the city's low-ball offer, others held out for somewhat better deals. A handful have resisted.

This fiasco replicates Detroit and GM's shameful collaboration in 1980, when the City used eminent domain to eradicate Poletown, a stable community of 400 homeowners, twelve churches and dozens of small businesses, schools and a hospital. In the Poletown case, GM ultimately built a Cadillac factory which created far fewer jobs than advertised and did not require destruction of many homes.

Indeed, the Toledo-DaimlerChrysler eminent domain scheme marks what is a growing corporate welfare trend whereby states and localities abuse their eminent domain powers to serve private parties. These are many of the most heart-wrenching instances of corporate welfare, because they often involve the literal destruction of longstanding homes, neighborhoods and communities. This newly emerging trend echoes the shameful corporate welfare history of ruthless use in the 1950's and 1960's of condemnation powers to uproot inner city communities and transfer valuable property to commercial and real estate developers.

CORPORATE BLACKMAIL AND THE MARRIOTT-MARYLAND CASE

While the implied threat of DaimlerChrysler moving loomed in the background of the Toledo dispute (city officials admitted fear of the company fleeing motivated their extraordinary generosity), the threat of corporate flight was in the foreground of Marriott's recent, successful effort to blackmail the state of Maryland into providing a $31 million to $47 million subsidy package.

In 1997, the company announced that its Bethesda, Maryland headquarters were no longer large enough to house its expanding workforce of 3,800. It created a search committee to decide where the company's new headquarters should be based. Company CEO Bill Marriott announced that the company would be willing to locate to a new state if compelling financial reasons justified it. Virginia leaped into the bidding war. Virginia Governor James Gilmore III and former Governor George

Allen both actively attempted to seduce Marriott to step across the border to take advantage of Virginia's lower tax rates.

Faced with Virginia's enticements, and with Marriott's cultivated indecision, Maryland progressively augmented its offer to the company.

When Marriott finally announced its intentions to remain in Maryland, state officials celebrated their victory over their neighbors. "Our team is red-hot, Virginia's team is all shot," Maryland House speaker Casper Taylor, told the Washington Post.

But in the bidding war Marriott cultivated between Maryland and Virginia, the only winner was Marriott. The corporate welfare package bestowed on Marriott did absolutely nothing to create new jobs. Marriott had already determined that it would expand its headquarters because of its growth and profitability—and that decision was made without regard to whether it would receive tax breaks in the state where it would base its headquarters.

After the giveaway, William Skiner, president of the Maryland Taxpayers Association, suggested that companies which receive public money should issue stock to state residents. "They have my address. Where are my shares?" he asked.

Of course the answer to that entirely reasonable question is: there are none.

Nor are there similar subsidies available to small businesses. They do not have the political clout, nor the plausible threat to move out of state, to leverage comparable corporate welfare packages. This imbalance creates a very real competitive advantage for large corporations like Marriott, which use the same state, county and local services as a 20-room inn or other small business, but does not pay a proportionate share of the taxes that fund these services.

After the tax subsidy deal was completed, the Baltimore Sun reported that Marriott had decided on remaining in Maryland before the state made its last, more generous offer. According to the Sun's report, Virginia officials were aware of the Marriott decision, but remained silent—enabling the company to extract more money from the state.

PLAYING FOR ALL THE MONEY: STADIUMS, GAMBLING AND CORPORATE WELFARE

Perhaps the most outrageous kind of bidding for business involves sports stadiums. The pattern is now familiar: the local sports team, owed by a megamillionaire in virtually every case except for the publicly owned Green Bay Packers football team, threatens to move unless the city bestows a glamorous, and extraordinarily expensive, publicly financed new stadium on the team. Inevitably, the stadium is required to contain luxury boxes and high-priced seats which help fill the teams coffers, but put watching the local team out of reach for significant portions of the town's population. If the city refuses to capitulate to the team's demands, the team, especially if it is a football team, typically follows through on its threat, and moves to a new location.

That creates a lose-lose situation for the city: either lose the team, or spends hundreds of millions of dollars for a public facility that will be used entirely or primarily to support a private sports team. Most, but not all, cities choose to subsidize the team, even in the many cases where scholastic athletics, not to mention the schools themselves, are massively underfunded.

In Seattle, Microsoft billionaire Paul Allen even paid for the use of Washington state's electoral machinery to finance a special election to fund a baseball stadium. Pouring millions of dollars into the referendum—against a piddling amount spent by the grassroots opponents of the stadium—Allen was able to eke out a narrow 51-to-49 percent victory. The Allen example follows the typical pattern of stadium proponents outspending opponents in elections by an order of magnitude or more.

Other examples of cities that have capitulated to this kind of sports mogul blackmail include Baltimore, Cleveland, Denver, San Diego, Nashville, Indianapolis, Pittsburgh, Miami, San Francisco, St. Louis and Detroit.

Now gambling casinos are looking for similar subsidies. In Detroit, after the city decided to give three giant corporate casino companies an effective license to tax lower-income people by running casinos, it decided to sweeten the offer further by providing $50 million in development funding and using eminent domain to take prime locations for the gambling houses.

In Atlantic City, the state of New Jersey is contributing more than $200 million in taxpayer dollars for a road-tunnel project and more than 100 acres of free land to entice Steve Wynn's Mirage Resorts to build yet another casino in the city. Building Steve Wynn's driveway has required the destruction of nine houses in the city's most prosperous African-American neighborhood.

(Such tax subsidies, incidentally, are not the only corporate welfare now granted to increasingly politically powerful gambling interests. Public Citizen reports that Senate Majority Leader inserted a provision into the 1998 IRS Reform Bill that per-

mits employers and employees solely in the casino industry to receive 100 percent tax exemptions for employer-provided meals, regardless of whether workers need to eat on the premises to do their jobs properly. This provision is estimated to save the industry approximately $30 million a year.)

CORPORATE WELFARE IN THE GUISE OF COMMUNITY DEVELOPMENT

There is a also an urgent need for public and Congressional scrutiny of a more regularized and pervasive form of corporate welfare, which is commonly described as community development and made available not on a negotiated case-by-case basis, but to all businesses locating in certain areas or meeting certain criteria. By providing a variety of local, state and Federal tax breaks through creative financing mechanisms (including tax increment financing), cities, state and community development agencies seek to assist businesses locating in targeted areas. The economic development agencies administering these programs are, in many cases, sincerely trying to facilitate community development, especially in low-income areas. But there is generally little reciprocal obligation placed upon the beneficiaries, either to provide certain kinds of jobs, or jobs at a living wage, for example. There is also serious reason to question whether some of the investments would have occurred in the absence of the incentive, or whether the tax incentives shift some investments from a nearby area with little net social gain.

The UCLA Center for Labor Research and Education and the Los Angeles Alliance for a New Economy recently conducted one of the most comprehensive reviews of a local community development effort, focused on the Los Angeles Community Redevelopment Agency. This project, it would be fair to say, was favorably disposed to such community development efforts, but was designed to help direct public expenditures to realize higher returns in terms of public benefits. Among the project's findings and recommendations (which apply directly only to the Los Angeles agency but probably apply widely): large subsidies to retail operations did not pay off; there was an underinvestment in industrial relative to retail development; small neighborhood shopping centers represented a better investment than large retail complexes; and that record keeping on the results of subsidized ventures is inadequate and needs improvement.

ENDING LOCAL AND STATE CORPORATE WELFARE

Addressing state and local corporate welfare will obviously require state and local initiatives. But there is an important Federal role, as well.

First, Congressional hearings that require some of the Welfare Kings to testify before a Congressional committee and to justify blackmailing cities and states may exercise some deterrent effect on the degree of their bullying.

Congressional hearings should also probe whether the provision of tax subsidies and similar incentives distort economic decisionmaking concerning the location of business activity and therefore constitutes an unconstitutional infringement on Congress's power to regulate interstate commerce, as has been suggested by Northeastern University Law Professor Peter Enrich.

Second, states need to be authorized and encouraged to enter into compacts in which they refuse to enter a race to the bottom against each other in terms of special tax breaks and related benefits. Congressional legislation should authorize anti-corporate welfare compacts.

Third, the Federal Government should levy a surtax on companies receiving state and local tax breaks, at the very least treating the value of the tax breaks as income upon which Federal taxes should be paid. Representative David Minge has introduced legislation toward this end.

On the stadium issue in particular, Senator Arlen Specter's proposal to require Major League Baseball and the National Football League to pay half the costs of any new stadium for teams in their leagues represents a useful starting point for determining how to ensure that the private corporate beneficiaries of stadiums pick up at least a significant part of the tab for their construction.

Finally, Congress should conduct a review of the use of tax-exempt municipal bonds. Their use to fund corporate welfare, private projects or public projects that will benefit a narrow business interest (classically, a sports team) should be prohibited. (There may also be merit to considering a replacement of the tax exemption with direct Federal transfers to state and local governments—according to Citizens for Tax Justice, such a scheme could transfer more money to state and local governments at less Federal cost, while eliminating one kind of local and state corporate welfare.)

All of these proposals should be subjects of future hearings by the House Budget Committee and other relevant Congressional committees, and should be the topic of GAO and CRS reports.

Large corporations have become increasingly adept at using their size and mobility to blackmail cities and states. City and state governments need assistance from the Federal Government to save them from cannibalizing their own tax bases. The alternative is to permit large companies to extort more and more welfare subsidies at the expense of taxpayers, small businesses and competing use of local and state monies—such as rebuilding crumbling schools.

EXPORT AND OVERSEAS MARKETING ASSISTANCE

Various government agencies maintain an array of export assistance programs. These programs raise the question of why overseas marketing and lending and other export assistance should be a government rather than private sector function.

As regular beneficiaries of double standards, big business executives and lobbyists, it seems, are without a sense of irony. How do the corporate proponents of international trade agreements designed to promote misnamed "free trade" explain their simultaneous support for marketing subsidies? If it is only on the grounds that "other countries do the same thing," perhaps they should turn their multinational lobbying prowess to eliminating other countries' export assistance programs.

The most disturbing feature of many of the export assistance programs may be that the assisted companies export troublesome products or technologies—weapons, or environmentally hazardous equipment, for example. Such programs, especially the various private corporate arms exports initiatives supported by the Defense Department, should be ended.

WEAPONS EXPORTS ASSISTANCE

The United States spends billions in a panoply of programs and agencies to support corporate commercial arms exports, according to the World Policy Institute's William Hartung. The Pentagon maintains a large bureaucracy devoted to promoting sales of military hardware by U.S. corporations to foreign governments. The Defense Department spends millions at military air shows to hawk the arms makers' wares, and it spends billions of dollars on loans, grants, credits and cash payments to enable foreign governments to buy U.S. weapons. Surely there are more efficient ways for the government to invest money if it is only concerned with creating jobs.

Of course, weapons are not innocuous products, and there are severe costs to an arms exports policy driven by commercial impulses. Former Costa Rican President Oscar Arias has noted that the defense industry's weapons-pushing destabilizes countries and regions, as with respect to the removal of the ban on the sale of high-tech weapons to Latin America. The repeal of the ban was the direct result of industry lobbying. According to Arias, it "will certainly impede our efforts to break the vicious cycle of poverty and militarism."

Commercial weapons exports may also undermine U.S. national security and humanitarian interests. As former Senator Mark Hatfield stated in 1995, "We can still enumerate dozens of cases where the transfer of U.S. military hardware has resulted in the misuse of those weapons, including human rights abuses and in the conduct of acts of aggression. Even more horrible is the fact that U.S. financed or provided arms have been used against our own soldiers in Haiti, Somalia, Panama and Iraq."

Why should the Pentagon subsidize commercial arms exports that may end up in the hands of dictators, may end upset regional stability, or which may be used against U.S. soldiers?

OTHER EXPORT ASSISTANCE AND OVERSEAS MARKETING PROMOTION PROGRAMS

Other government export programs have been the target of more sustained public and Congressional outrage, which has led to some partial but still inadequate reforms.

The Department of Agriculture's Market Access Program, once known as McNuggets for the World for its support of McDonald's advertising (when it was formerly the Market Promotion Program), is a $90 million-a-year program which is now limited to support of marketing efforts by farmer cooperatives and trade associations. However the benign-sounding category of cooperatives, suggestive of small farmer arrangements, includes such operations as Sunkist and Ocean Spray, which are well able to afford their own advertising campaigns.

Again, the Market Access Program and similar programs raise difficult questions: Why is export assistance a proper government function? Why does the market fail

to provide incentives for advertising, lending or other functions? And if businesses determine that a particular activity is not market-worthy, what public interest is served by the government filling the vacuum? If export assistance from other nations is the primary rationale for U.S. activities, how serious are efforts to negotiate an international agreement to curtail such programs? Finally, does the government receive an adequate return on its investment?

DEFENSE AND HIGHWAY PORK

It is important that "pork"—federal monies for unnecessary projects—is understood as a subset of, not a synonym for, corporate welfare. Indeed, pork is the special case that does not fit in the definition of corporate welfare offered earlier in this testimony.

While pork is a significant drain on the Federal treasury, it is not, by and large, a helpful analytic term. Labeling a project "pork" stigmatizes it as unnecessary; the response of the project's defenders is to say that in fact the project is necessary. "Pork" does not offer objective criteria by which the dispute can be resolved.

Nonetheless, while analysts may differ over whether one or another project is pork, almost no one disputes that pork exists and is widespread. Pork is in part a reflection of our regional and state representative system of governance, with legislators trying to return Federal dollars to their districts or states. But it is also derivative of a corrupt political system in which special interests exert an unhealthy influence.

PENTAGON PORK

The Pentagon budget is a bloated source of contractor pork. Without entering into a discussion of U.S. national security imperatives, it is clear from many official reports by both the Congress and the Executive Branch that much of what the Pentagon procures is unnecessary; that Pentagon waste and fraud is persistent; and that these problems reflect the political power of the military contractors.

One classic example of unnecessary procurement is the C-130 transport plane, which is built by Lockheed Martin in Georgia, near former Speaker Newt Gingrich's district and in the homestate of former Senate Armed Services Committee Chairman Sam Nunn. The Air Force has requested just a small fraction of the more than 250 C-130 transport planes for which Congress has appropriated funds since 1978. The planes cost about $75 million apiece.

Systematic corporate contractor fraud and waste have long been, and remain, too widespread at the Pentagon. Most recently, the Department of Defense Inspector General reported on spare parts provided to the Pentagon by Allied Signal at a 57 percent markup over commercial prices.

It is important to understand the political underpinnings for ongoing Pentagon welfare and the failure to crack down on waste, because it illustrates the importance of competition and economic decentralization in curbing corporate welfare, and because it presents a case where outrageous corporate welfare benefits helped consolidate the political influence of narrow business interests.

During the early years of the Clinton presidency, the Pentagon encouraged the defense sector to consolidate, and it backed up its encouragement by subsidizing mergers through payments to cover the costs of consolidation—including extravagant "golden parachute" bonuses to executives of acquired companies. No industry knows how to respond to corporate welfare subsidies like the defense industry, in part because they conceive and lobby for them, as did Norman Augustine, the now retired CEO of Martin Marietta. The result of the Pentagon's encouragement is that military suppliers have undergone an ear-splitting consolidation that has left but three major prime contractors: Lockheed Martin, Boeing and Raytheon. Today's Lockheed Martin is the product of the merger of Lockheed, Martin Marietta, Loral, parts of General Dynamics and about two dozen other companies. Boeing leaped to the top tier of the contractor pack with its acquisition of McDonnell Douglas. Raytheon gobbled up Hughes.

With manufacturing facilities spread across the United States, these three companies now have enormous political influence—they can show that new military contracts will mean jobs in the districts of hundreds of Members of Congress, and in nearly every state. For districts where they do not have facilities, they can employ suppliers to help give them a political presence. This structural power, which is supplemented by major investments in campaign contributions and lobbyists, helps enable the contractors to preserve the cycle of wasteful spending and abuse at the Pentagon. The tight consolidation of the industry also leaves the Pentagon much less able to deploy one of its most powerful sanctions against contractor wrong-

doers—procurement disbarment—because of the paucity of alternative prime suppliers.

HIGHWAY PORK

The Federal highway bills are another major source of pork. While important progress has been made in directing highway monies to road and bridge repair, as well as for modes of public transport, last year's highway bill, the Transportation Equity Act for the 21st Century (TEA-21) will allocate billions of dollars to new road construction, much of it unnecessary and harmful. Instead of supporting modern mass transportation, Congress continues to satisfy road construction interests (and indirectly the auto companies). The harmful consequences include sprawl, air pollution and contributions to global warming.

OTHER FORMS OF CORPORATE WELFARE: LOANS AND LOAN GUARANTEES

As anyone who has been bombarded with credit card solicitations knows, there is no credit shortage in the United States. So why does the U.S. government enter into the business of making loans and issuing loan guarantees to large corporations? Corporations generally want loans from the government either because the loans are made at below-market rates, or because the loans include some sort of implicit subsidy (including de facto government insurance). This is a form of credit allocation that some legislators decry when applied to ordinary Americans.

Consider a loan on the verge of being approved by the World Bank, in which the United States is the largest country shareholder with an approximate 16 percent share. The $180 million loan package would help finance an oil pipeline that would transgress Chad and Cameroon, in Central Africa. The three corporate beneficiaries of the loans would be Exxon, Shell and the French company Elf. The three companies' consortium says that it plans to use the World Bank financing as the foundation for additional private financing. In other words, private lenders will be more willing to support the project knowing that the power of the World Bank stands behind compelling repayment. But if three of the world's largest oil companies do not feel comfortable financing an oil development scheme on their own, or if they are unable to attract private financing without government or multilateral lending agency support, perhaps that is a sign that the project should not go forward. (Critics point out that the project poses threats to rainforests, endangered-gorilla-inhabited conservation areas and drinking water; and is likely to exacerbate ethnic conflicts with consequences potentially similar to those in Nigeria's Niger Delta or worse—political violence, some connected to prospective oil revenues, is already rife in Chad.)

Loans and loan guarantees are another corporate welfare category deserving a high degree of skepticism. For healthy companies, these kinds of government supports should be unnecessary. For cases where a political decision has been made that special circumstances merit some company or industry receiving loans or loan guarantees, Congress should adopt legislation that establishes a presumption of full repayment, at market rates. (For comment on bailout loans, see the remarks above.)

AGRICULTURAL SUBSIDIES

The government maintains a variety of agricultural subsidies, ranging from irrigation subsidies to crop insurance and price supports for certain commodities. Many of these benefits accrue to corporate agribusiness, and often support environmentally harmful farm practices (such as overuse of water). The original purpose of farm supports was to support family farmers and enhance stability in agricultural markets, and it is doubtful whether the programs still fill this function. At the same time, many farm supports were eliminated in the 1996 Farm Bill, with the general effect of promoting agribusiness consolidation and increased power for grain traders. Food prices have not declined. All of this suggests the need for a serious and open-minded reassessment of farm programs, so that the public interest in protecting family farms and sustainable agriculture is advanced, while subsidies for large agribusiness are curtailed.

CONCLUSION

With corporate welfare so pervasive at all levels of government and so deeply entrenched thanks to the political maneuvering of beneficiary corporations and allied bureaucracies and legislators, the campaign against corporate welfare must be strategically savvy, multi-pronged and able to both create momentum and to take advantage of external events. Nurturing this kind of agility requires a broad legisla-

tive agenda, with numerous bills introduced to accomplish different ends. After all, the looting of Uncle Sam is an ever-growing Big Business.

Corporate welfare opponents in Congress should look to introduce: simple, bold and far-reaching legislation to galvanize public support; legislation that empowers citizens to mobilize in opposition to corporate welfare; proposals that guarantee procedural fairness in decisions to provide and continue corporate welfare benefits; legislation that requires ongoing review of corporate welfare programs; proposals that emphasize the obligations of the corporate beneficiaries of government largesse to pay back the taxpayers in monetary and nonmonetary terms; disclosure-oriented requirements to present taxpayers with the costs and beneficiaries of corporate subsidies; and narrow and precise bills that address particular corporate welfare abuses and which may be valuable later as amendments or to capitalize on suddenly potent issues.

These are matters calling for creative thinking and approaches not only from Members of Congress, but from law schools, political scientists and economists. Unfortunately, a survey of law reviews and recent Ph.D. dissertations that we made reveals a remarkable paucity of academic attention to the issue of corporate welfare. And few philanthropic foundations are interested in funding research into the issues. But more attention from Congress and the public will help jar academia awake.

For now, here is a beginning set of overlapping proposals for discussion and reform. This list focuses on structural approaches, rather than itemizing programs that should be eliminated. The first set of proposals applies generally to corporate welfare, with the second oriented around the categorization of corporate welfare benefits offered in this testimony. In the spirit of trying to spark a flexible, pluricentered campaign against corporate welfare, some of the proposals are redundant—different approaches may appeal to different Members, and different proposals may fit different political moments. In the same spirit, these proposals are intended to be provocative and are certainly open to criticism and refinement. Their purpose is to jumpstart creative thinking and debate about procedural and substantive remedies to an expanding corporate welfare claim on taxpayer monies and assets.

ACROSS-THE-BOARD APPROACHES

1. A Bill to Eliminate All Corporate Welfare. A simple bill that would wipe the corporate welfare slate clean could provide a valuable rallying tool for citizen opponents of corporate welfare. Such legislation would not propose a permanent ban on corporate welfare, which in any case would always be vulnerable to subsequent legislative action, but would require proponents of particular programs to mobilize support for the affirmative re-commencement of their favored subsidies under both procedural safeguards and reciprocal obligations. Then the advocates of the 1872 Mining Act could make their case for why such an abomination should be reinstated after elimination.

The central operative language for such a bill might read:

(1) As of January 1, 2000, every Federal agency shall terminate all below-market-rate sales, leasing or rental arrangements with corporate beneficiaries, including of real and intangible property; shall cease making any below-market-rate loans or issuing any below-market-rate loan guarantees to corporations; shall terminate all export assistance or marketing promotion for corporations; shall cease providing any below-market-rate insurance; shall terminate all fossil fuel or nuclear power research and development efforts; shall eliminate all liability caps; and shall terminate any direct grant, below-market-value technology transfer or subsidy of any kind.

(2) As of January 1, 2000, the Internal Revenue Code is amended to eliminate all corporate tax expenditures listed in the President's annual budget.

(3) As of January 1, 2000, the Internal Revenue Code is amended so that the value of local, county and state tax subsidies to corporations shall be treated as income.

(4) Where contractual arrangements or promises made in law preclude any action required by Sections (1), (2) or (3) without payment by the Federal Government to existing beneficiaries of programs to be eliminated, Federal agencies shall take such actions as soon as possible without incurring such payment obligations.

Because of the complexity of the corporate welfare problem, such legislation would obviously need to incorporate considerable language amending existing statutory language. And even this approach would leave some corporate welfare problems unaddressed—such as the need to eliminate pork-laden or other programs in which the government should not be engaged, or for nonmonetary commitments from corporations receiving government supports)—but it would be a very useful start.

2. Citizen Standing to Sue to Challenge Corporate Welfare Abuses. Citizens could be empowered to mount judicial challenges to runaway agencies that reach beyond their statutory powers to dole out corporate welfare. Legislation could give taxpayers standing to file such suits, by awarding a $1,000 "bounty" (plus reasonable attorneys' fees and court costs) for those who successfully challenge improper agency action. Consideration should be given to creating an incentive for such suits by awarding successful plaintiffs a percentage of the money saved through such suits, perhaps according to a sliding scale of declining percentage returns for higher savings and with a cap set at certain amount. Just as qui tam suits under the False Claims Act have helped curtail oil company underpayment of royalties owed the Federal Government, so such a measure would create a structural counterbalance to corporate influence over Federal agencies.

3. Funding for Town Meetings on Corporate Welfare. A small appropriation could fund dozens of town meetings across the country on corporate welfare and help educate the public about corporate welfare. Alternatively, the House and Senate Budget Committees should use their committee resources to schedule a smaller number of public hearings on corporate welfare across the country.

4. Sunsetting Corporate Welfare. The Congress should consider legislation requiring that every program in which the government confers below-market-value benefits on corporations, including tax expenditures, automatically phases out in 4 years after initial adoption, and every 5 years thereafter. Under such a rule, the programs could of course be renewed, but only with affirmative Congressional action. Sunsetting would overcome the problem of inertia by which both bad ideas and good ideas turned bad become entrenched corporate welfare programs protected from serious legislative review and challenge. The entrenchment problem is a particular problem for nonbudgetary items, which are spared even the reviews accorded to appropriations.

5. Annual Agency Reports on Corporate Welfare. Every Federal agency could be required to list every program under its purview which confers below-cost or below-market-rate goods, services or other benefits on corporations. They could also publish a list of every corporate beneficiary of those subsidies above a certain de minimis threshold, and the dollar amount of the subsidy conferred. This measure would spur much more news reporting on corporate welfare, and would generate public awareness by assigning proper names to the beneficiaries.

These reports should be published on the internet, as should all other corporate welfare-related disclosures.

6. SEC Requirement for Corporate Welfare Disclosure. The Securities Exchange Act could be amended to require publicly traded corporations to list the subsidies (both by type (program) and amount) they receive from governmental bodies, and to publish this information on the internet. Alternatively, the SEC could mandate such disclosure through rulemaking. This disclosure requirement is easily justifiable as in the public interest, since corporate beneficiaries are in many ways better positioned to report on the benefits they receive from government than the government conferors. It would serve a valuable public purpose by assembling in a single location the dollar amounts of public subsidies accorded to the nation's largest corporations; and thereby enabling the citizenry to assess properly the extent and desirability of the subsidies. The disclosure requirement is also appropriate as a disclosure of material interest to shareholders. Government subsidies are of central importance to many of the nation's largest corporations, and to assess fully the value and future prospects of corporate earnings, shareholders have a right to information on government subsidies.

7. Limits on Executive Compensation in Government-Supported Corporations. Where the government is conferring substantial, voluntarily received benefits on corporations, it could reasonably limit the scope of beneficiaries to those which do not engage in particular sorts of socially undesirable behaviors. One such behavior is excessive executive compensation, which heightens income and wealth inequalities, and tears at the nation's social fabric. Government subsidies, including tax expenditures, could be denied to corporations whose executives receive more than a predetermined level of compensation, say those whose ratio of executive-to-lowest-paid-employee compensation is more than a certain amount, perhaps 35-to-1.

8. Prohibition of Government Subsidies to Criminal Corporations. From convicted felons who are persons, the Federal Government, and state and local governments, take away fundamental rights, including the right to vote. Corporations convicted of crimes rarely experience deprivations of anything near that scale. A small and appropriate step might be to deny any form of corporate welfare, including tax expenditures, to any corporation convicted of a certain number of felonies and/or misdemeanors. If the government is to confer subsidies on corporations, surely they should not go to enterprises convicted of criminal wrongdoing.

9. Reciprocal Obligations. The government should seek nonmonetary reciprocal obligations from corporate welfare beneficiaries. These must necessarily vary by category of corporate welfare program and beneficiary. But two types of obligations are of special importance.

First is the requirement that certain subsidies be conditioned on beneficiaries enabling consumers to band together in nonpartisan, nonprofit, democratically governed organizations. This can be accomplished by allowing government-chartered consumer organizations that are accountable to their membership to include an insert, at no cost to the company, in the corporate welfare beneficiary's billing envelope, or publishing information on the company's web site. The insert would invite consumers to join the organization, which would work to contain prices, improve product quality and service, advocate for reforms, etc. This mechanism would be particularly appropriate for banks, thrifts and other lending institutions, insurance companies, HMOs and utilities.

Second, allocation of rights to government lands or other natural resources could be conditioned on beneficiaries agreeing to abide by environmental regulations, or even to uphold environmental standards that exceed those required by existing regulation.

GIVEAWAYS, INCLUDING R&D GIVEAWAYS

10. Prohibition on government giveaways. Government properties, whether real or intangible, should presumptively be sold, leased or rented to corporations for market rates. Except in certain circumstances (such as where consumer pricing considerations are considered of more importance than taxpayer reimbursement), there is no reason for taxpayer assets to be given away to corporations at less than market value.

11. Promote Competition in Allocating Government Resources. Market value will vary based on the terms of the property transfer. Depending on the circumstance, taxpayer revenues may be lower if resources are allocated on a nonexclusive basis. But there is an overriding broad public and consumer interest in promoting economic competition, and legislation could establish a presumption that, where possible, when taxpayer assets are to be transferred to corporations they be conveyed on a nonexclusive basis.

12. Competitive Bidding. In all cases, but especially where the government plans to transfer taxpayer assets to corporations on an exclusive basis, Congress should consider requiring asset transfer prices to be established by auction.

13. Reasonable Pricing Provisions. Where there will be a consumer end-user from the transfer of government assets (as in the case of products brought to market utilizing government-controlled intellectual property rights), the terms of the transfer should require the corporate beneficiary to agree to reasonable pricing provisions. This is of primary importance for exclusive transfers, where transferees may gain monopoly power. Because Federal agencies, especially NIH, have historically done a poor job in enforcing reasonable pricing provisions, serious consideration needs to be given to how such provisions should be administered and enforced. Required disclosure of private investment in product development, and correlating prices with amount and proportion of private investment, may offer one fruitful approach. It may also be possible to include reasonable pricing guarantees in the bidding process, with preference given to bidders making enforceable promises of lower prices.

14. End Fossil Fuel and Nuclear Power R&D. There is no justification for Federal support for these environmentally hazardous, nonrenewable energy sources. As study after study has demonstrated, energy efficiency and renewable energies represent the future superiorities.

INSURANCE, LOANS AND BAILOUTS

15. No Discount Insurance. The Congress should consider a legislative presumption against below-market insurance for corporations, requiring a special waiver for exceptions.

16. No Liability Caps. There should be a legislated blanket prohibition on liability caps, which unjustifiably protect corporations from paying for any harms they perpetrate. Liability caps, such as those in Price Anderson, should never accompany governmental insurance schemes.

17. No Discount Loans. The Congress should consider a legislative presumption against below-market loans or loan guarantees for corporations, requiring a special waiver for exceptions.

18. Payback For Bailouts. Legislation could require that all bailout beneficiaries pay back loans in full, with interest, with priority given to repayments to the government over other claimants.

19. Preventing Foreseeable Financial Bailouts. Proposed legislation (H.R. 10) to lift the regulatory walls between banks on the one hand and insurance and securities firms on the others would create too-big-to-fail financial holding companies, with Federal deposit insurance likely to be de facto extended, at no charge, to other financial affiliates. H.R. 10 should be amended to include a provision establishing, in advance of future bailout demands, that no Federal assistance will be made available to financial holding companies or to their nonbank affiliates. Because this is an especially timely matter, I have attached legislative language for such a provision at the end of this testimony. This language was originally prepared last year at the request of then-Senator Alfonse D'Amato.

CORPORATE TAX EXPENDITURES

20. Eliminate All Corporate Tax Expenditures. Because corporate tax expenditures are already compiled in the President's budget submission and by the Joint Committee on Taxation, this step would be less logistically complicated than ending all corporate welfare. Wiping the slate clean of corporate tax expenditures-perhaps the most deeply entrenched type of corporate welfare-would require the tax expenditure beneficiaries and their Congressional allies to justify anew these tax supports, and deserves Congressional consideration.

21. Require Reporting of Corporate Tax Expenditure Beneficiaries. The Internal Revenue Service could be required to publish a list of all corporate tax expenditure recipients over a certain de minimis level.

INDUSTRY PROMOTIONS AND EXPORT ASSISTANCE

22. End Government Market Promotion. Congress should consider prohibiting government-run advertising and marketing schemes for private corporations.

23. End Export Assistance. Congress should debate eliminating export assistance programs, or making them available only on a strict means-tested basis.

LOCAL, COUNTY, AND STATE CORPORATE WELFARE

24. Regional and National Compacts. Congressional legislation should authorize anti-corporate welfare compacts between states, enabling them to enter into binding arrangements to refuse to enter a race to the bottom against each other in terms of using special tax breaks and related benefits or stadiums to influence business, including sports team, location decisions.

25. Surtax on Local and State Corporate Welfare. Congress should consider requiring the IRS to treat local and state corporate welfare expenditures as income upon which Federal taxes should be paid.

Mr. Chairman, there is a rising discontent across the country with the hijacking of public assets to benefit narrow corporate interests. The public's frustration with the corporate welfare state is palpable, but it remains inchoate and unorganized. The Green Scissors Coalition and others represented at today's hearing have done vital work in publicizing the issue, but it has yet to attain the visibility needed to grab the public's attention and focused energies.

The time is now for you and other courageous Members of Congress who truly believe in "Ending Corporate Welfare As We Know It" to launch a series of GAO, CRS and CBO studies, to conduct extensive hearings in Washington, DC, and across the country, to introduce and vigorously push for corporate welfare legislation, and by your leadership to force this issue with such broad appeal onto the front pages and the nation's television screens.

There is a nascent national consumer-taxpayer-environmentalist-worker-small business coalition that is waiting to be consolidated on this issue. If these forces are united, they will form a powerful political force that can help rescue our political democracy from the narrow interests that now dominate it. Corporate welfare cuts to the core of political self-governance, because it is perpetuated in large measure through campaign contributions and the subversion of procedural and substantive democracy; and because the perpetuation of corporate welfare itself misallocates public and private resources and exacerbates the disparities of wealth, influence and power that run counter to a functioning political system in which the people rule.

A final note before closing. Given its breadth, this testimony necessarily paints in broad strokes. It is important to reiterate that we do not oppose all corporate welfare. But it is important that even "good" corporate welfare programs operate with safeguards in place to ensure procedural fairness, full disclosure of beneficiaries, frequent review and reaffirmation, and reciprocal payments and nonmonetary commitments from recipients.

This hearing is an important and historic beginning, Mr. Chairman. But if it is not followed up by more hearings and a sustained effort that involves more and more Members of Congress and citizen organizations, it will be of modest consequence. We are ready to join with you to help expand on the opportunity presented by this hearing.

Thank you.

Chairman KASICH. You can take a breath. Let me, Mr. Nader, ask you kind of the fundamental questions. I know you feel passionately about everything you said and that reasonable people can disagree with a number of the specifics that you laid out, but I don't think it is possible to reject a chunk of what you have said in terms of the common sense results and approaches.

You said that you offered an amendment in the banking Committee where you got 40 noes and six yeses. Now, I had an experience, a couple of experiences here. One was we had a vote on the overseas Private Investment Corporation, and we snuck up on them, and we stopped the program for, I guess, I don't know, we stopped the refunding of the program for about a half a year, and then what happened was the people who were the beneficiaries went to their constituents, and then they had their constituents call—the ones who had gotten the benefits of this program called the Members of Congress, and the next time we got a vote on this program working with a coalition of members on the Floor of Republicans and Democrats, we had our lunch handed to us.

Now, we did make some progress in the area of timber sales. In fact, we were able to negotiate a successful agreement on timber sales. You know, I was somebody that came to the Congress in 1989. You could get all the people that voted for my budget in a Volkswagon, and I am never afraid to walk a lonely road in government.

You can see how much interest there is in this hearing today, very limited interest in this hearing today in terms of Member participation. Members are busy, so they have to establish priorities. But the difficulty is, first of all, getting Members' interests in this subject, and I know you believe that there is this enormous political vein out there that can be tapped into.

If there is one, I don't know where it is because this has been a huge struggle because when you take these issues on—and there are a lot of young people in this room today—you don't make any friends, trust me. All you make are enemies; and the question is, I don't want to just go 40 to six every year and then we can vent against certain programs and it sounds good, but we don't make any real progress.

This hearing is well covered today because it is a novelty. You showed up on the Hill; there are going to be conservatives on the hill who are all going to testify to essentially the same thing, and this issue does capture a little bit of media attention.

But the question is, how are we going to win some victories? Because all—if all this is are hearings and testimony to committees that are not very well attended, then I can tell you that you are going to get zero, not going to win anything. So the question is, how can we get the conservatives, the liberals, the progressives to get behind? I used to think we could find 10. I no longer think we can even find 10 issues where we can combine ourselves and lead a large campaign.

How are we able to, in your judgment, make some real accomplishments against several of the most egregious problems? I mean, you have pointed a lot of things and you talk about, for example, stadiums, and people on both sides of the issue can make big arguments about that issue, but I think there are some issues here, for example, the 1872 mining Act, where you are going to still not get unanimity but you can get an overwhelming consensus that that needs to be reformed.

How are we going to work to build the political support to actually have some clearcut victories on the floor of the House and the Senate and not just sit around and talk? I have been engaged in this thing now for 4 or 5 years, and we have had, like I say, some significant victories but few in number. So what do we do about it?

Mr. NADER. Well, first of all, Mr. Chairman, this is the first time that the subject of corporate welfare in its amplitude has been on C-SPAN, which means that it is going to reach at least a million people, and we shouldn't say that this issue is a forlorn one for courageous Members of Congress before we at least see whether the mass media is willing to carry it to millions of people.

I know that people who watch C-SPAN get back to their Members of Congress about what they have seen. Our testimony will be on our Web site, *www.essential.org*, for further access, and we invite the comments of people all over the country in their favorite area of corporate welfare critique.

Now, where you cannot in a straight-on attack on a corporate subsidy win and you have tried to go after these subsidies straight on, there are angular approaches that lay the basis to build for future victories. One is to put in every time you can amendments in appropriate legislation for disclosure, for specific disclosure of the kind and amount and the beneficiaries of corporate welfare.

Another is to put in amendments for sunsets. Another is to put in amendments for reciprocity. You say, OK, Bristol-Myers, you are getting this annual billion dollar revenue Taxol drug, what are you giving back in return? So that you collaterally attack the problems from different ways where you cannot head-on overwhelm and defeat a particular program.

We know that information is the currency of democracy. We know that when information is out and when it is specific by company, by program, it develops a larger audience of outrage and concern which reverberates back to Congress. So I think in some answer to your question, why don't you try a procedural strategy in order to lay the basis for a substantive attack on these subsidies and programs. The procedural strategy is outlined in our testimony, but it really revolves around things like disclosure, sunset, reciprocity, standing to challenge on the part of the taxpayer.

Notice, not a single taxpayer in this country can challenge any of these programs. I will never forget, just before the Ford administration left office, the Commerce Department issued an announcement for a large loan guarantee to General Dynamics to guarantee loans for the construction of liquified natural gas tankers to move gas from Indonesia to Japan, a multibillion dollar loan guarantee, and there was no involvement by Congress to approve it. There was no public docket at the Department of Commerce, and no taxpayer could challenge.

Now, this is a one-hundred-percent shut out procedurally of the taxpayers of this country, and they are told no matter how wasteful these subsidies are, no matter how much corruption there may be, no matter how much documentation, you as a taxpayer can't have the chance to prove the case in court.

So procedural attacks are extremely effective when you don't have the full political support here in Congress to go after the subsidies directly.

Chairman KASICH. Well, Ralph, I think part of what you are suggesting is more lawsuits, and I frankly don't like that idea. I have a more fundamental question. If we know that somebody is getting $8 or $9 billion off of a public land and they are virtually paying no royalties for that and you are trying to tell me that you can't take an issue like that head on and win, that the way we have to go is in some procedural direction. I mean, the question is, why can't you win? You know why I think you can't win, because I don't think we have the sustained support from people who oppose these things willing to dedicate a lot of time and a lot of energy to taking these issues on.

Mr. NADER. But there is another reason, Mr. Chairman. Where the executive branch is the culpable branch, let us say they are not doing the right job and it needs to be challenged, where the legislative branch is too under the influence of big money and all the rest, it is time to ask whether the judicial branch has a role here. I believe in the judicial branch of government. I think our forebears bled and fought for the right to have their day in court. I think that is an all-American right, and I think the attack on access to the court has become too extreme and almost wild in its ferocity by the business community.

When I say taxpayer challenge, what I mean is not a taxpayer going to challenge a government program and make a billion dollars. The taxpayer is going to challenge a program, for example, under injunctive relief, under mandamus relief by the courts who tell the agencies, you are allowing the taxpayer resources to be looted under existing law.

Now, sometimes it is good to give the taxpayer bounty, too, to facilitate that kind of incentive, but I believe in the judicial branch of government as an essential counterweight.

Chairman KASICH. But let me tell you, it is not—you know, I don't think it is all the way you paint it. Let me just give an example with the Overseas Private Investment Corporation. In my own congressional district, there were a couple, I think, businesses—I am not even aware of them all—that benefited from OPIC.

So if the people who benefit call their representative and say, hey, by the way, do you know that this program has been helpful to me, and we have created 50 new jobs because of this and the people trying to kill this are just dead wrong, when that Congressman gets no calls, absolutely no calls from any of the other folks who are out there who are members of conservative organizations or liberal organizations, where there truly is a grassroots support, because presumed in your testimony is that there is, the public wants to unleash their frustration to level the playing field, the problem is you are not getting people to call the other way and to say this program ought to go.

And my view is that until the grassroots organizations that have determined that they have a stake in eliminating some of these unnecessary programs get involved, it is not as though it is some huge deal. It is minor groups of people who really call, but they are the only ones that call, and I think if you had people in the conservative and liberal side saying, cut that, government, it probably would be cut. Maybe we need to make a better effort to try and mobilize our own forces.

But let me go to Mr. Toomey, who sat through the entire testimony and recognize him for 5 minutes or whatever time he may consume.

Mr. TOOMEY. Thank you, Mr. Chairman. Thanks for joining us today, Mr. Nader. I wanted to pursue a slightly different direction with you. There are often arguments made that corporate welfare amounts to a misallocation of capital in the economy, and I tend to agree with that. I think there is a compelling case to be made that their very existence requires taxes to be higher than they might otherwise be, hard to refute that. Corporate welfare is often justifiably criticized for the inherent unfairness in singling out some industries and companies as opposed to others, but what I wanted to explore with you this morning was the question of the constitutionality of this.

Could you cite for me where in the Constitution the Federal Government is authorized to pick a single company or a single industry and blatantly subsidize that business? Do you think that is constitutional at all?

Mr. NADER. Well, the general response is that it is under the general welfare clause of the Constitution, which seems to been an infinitely expandable clause of the Constitution. The critique of that is as follows: one is the belief by some legal scholars that the definition of public purpose—which justifies the State to engage in eminent domain, take over neighborhoods, buy out homes and small businesses, and hand the land plus a subsidy package to a corporation or to a parking lot or to a gambling casino—has no boundaries in our court cases. And unless it is given constitutional boundaries, then the answer to your question is there is no limit to the use of the taxpayer dollar. There is zero. Let me repeat that. Apart from building a church, apart from the State/church separation, under present Supreme Court doctrine, there is no limit as to how the tax dollar in the United States can be used by government.

Mr. TOOMEY. Well, getting back to the general——

Mr. NADER. In a constitutional sense. Obviously they can't use it to bribe somebody.

Mr. TOOMEY. Right.

Mr. NADER. And the second answer to the thrust of your question is to look to the commerce clause. The argument there is that the commerce clause was designed to prevent the States from challenging one another, to lure business from one another and create barriers. These may include the passive barriers that are created such as when Virginia and Maryland wrestled over lavishing subsidies on Marriott, even though, as it turned out, the Baltimore Sun reported Marriott was going to stay in Maryland all the while. The passive barriers are when a State says to a corporation in an-

other State, if you relocate in our State, we will give you a tremendous tax holiday.

In Professor Enrich's article in the Harvard Law Review, the argument is that that is a violation of the commerce clause of the U.S. Constitution because it effects in an indirect, in a passive way the same kind of barrier which had been struck down between the States.

Mr. TOOMEY. To touch sort of in reverse order here, with regard to the commerce clause, the constitutional authority to regulate commerce amongst the States seems clear to me was intended to make regular commerce amongst the States and to strike down as you pointed out the affirmative barriers, and with respect to the general welfare clauses, to both of these put together, to those who would defend corporate welfare and cite these clauses, it seems to me essentially suggesting that there is no realm which is not appropriate for the Federal Government to engage in, and that clearly contradicts what the Constitution is all about, which is limiting the power of the Federal Government to those powers enumerated within it.

So it seems to me you have to believe—in order to believe that these clauses justify corporate welfare, you have to believe that the Founding Fathers clearly contradicted themselves within the Constitution and didn't know whether they wanted a limited or unlimited Federal Government.

Mr. NADER. Well, you put it in a very succinct way. If constitutionalism means anything, it means boundaries; it means limits in different dimensions. And when it comes to corporate welfare programs, there are no limits.

Mr. TOOMEY. Well, I appreciate your coming here today and look forward to working with you and others to find ways to reduce this rather egregious spending we have here at the Federal Government. Thank you.

Chairman KASICH. Gentleman from Pennsylvania, Mr. Hoeffel.

Mr. HOEFFEL. Thank you, Mr. Chairman. Mr. Nader, thank you very much, great testimony, very thought provoking. Your lead remedy is the proposal for a bill to eliminate all corporate welfare under the concept, as you put it, to let them start over again, which has a certain appeal; and you referenced with the phrase remember zero-based budgeting, the notion of obliterating all the bad stuff and making people start over and justify their program or their subsidy.

I do remember zero-based budgeting as a young state legislator in Pennsylvania. When Jimmy Carter talked about it, I thought it was wonderful. I tried to get it going in Pennsylvania, got nowhere. Zero-based budgeting got nowhere here in Washington, and my concern is that your lead remedy, which has a certain simplicity and cleanness to it, simply won't ever be passed.

So is there some other provision such as the establishment of a commission to recommend changes to Congress, a better way of going to try to get the ball rolling? I mean, we have got the power now to change all these things, and we don't change them. Is there some more gradual legislative process we ought to consider?

Mr. NADER. Well, first of all, I wouldn't give up on this first recommendation because even if it never gets through, it has the

great potential to shake up the situation and give these issues more visibility. This relates to what Chairman Kasich was saying, that nothing is going to happen until the public is galvanized. So as an instrument of discussion, debate, visibility, it is worth trying.

I think that was true for the advocates of zero-based budgeting. The difference here of course is budgeting constitutionally is supposed to start in the House, but actually starts in the executive branch. So zero-based budgeting relied on executive branch initiative more than this proposal, which would rely much more on legislative initiative.

Do you know there was a proposed commission? It never got off the ground. Remember, Senator Kerry was on the commission.

Mr. HOEFFEL. I thought Senator McCain had a proposal for a corporate welfare commission.

Mr. NADER. That is right, and it never got through. So you can see even something as preliminary as that proposal is opposed by the lobbyists. Anything's going to be opposed by the lobbyists; but remember, you got through the Congress a deletion of the $30 million for the bonuses for the executives at Martin Marietta because it was put in legislation.

So this idea of an angular approach procedurally, reciprocity, disclosure, sunset, if dozens of members who share a common belief here put these amendments in at all times they are going to break through, and they are all going to become magnets for discussion as well.

Chairman KASICH. Will the gentleman yield?

Mr. HOEFFEL. Yes.

Chairman KASICH. Let me ask, Mr. Nader, are you willing to take on the challenge of picking out some of the conservatives who are going to be here today and sitting with them personally and trying to come up with one or two items that you would be willing to dedicate the grassroots effort to undertake and fight both on the House and the Senate floor?

Mr. NADER. Definitely, but I would want to do both. What you said——

Chairman KASICH. I am just saying to you that is the way you will stir up the public is that you say here is an outrage, and it is a national campaign to say that we are going to show that we can win one fight, and all the focus goes into one fight. You can all have all the commissions you want. They are never going to pass.

Ralph, you have got to get into the real world on this what is going on up here. It ain't going to work that way. If you want to get something defeated, you and the conservatives have got to get people stirred up in all these congressional districts who are going to say we are going to change X and we are going to put everything we have to win one single fight, and when you win the first fight, guess what, it makes it easier on the second fight. And right now, there is no support for a member who goes to the House Floor to fight any of these subsidy programs, zippo support; and as long as there is zippo support, you are not going to pass commissions. What is that word you used there—it is not the head on approach, but the angular approach—triangular approach.

Mr. NADER. Not triangular.

Chairman KASICH. Angular approach. I mean that is fine, but you're not going anywhere with that. You have got to win a couple of these fights, and you know what happened with timber because both the conservationists, the environmentalists and the conservatives and the liberals all said yes, and there was a ready base of support for people who would go to town hall meetings and drive the congressmen crazy. If you are not driving congressmen crazy, you are not going to win any votes because the other side is going to dominate, and it is democracy. It is not an evil, wicked thing. It is just the way it works, and we can win these, but there is no substitute for people power. The gentleman is recognized, I am sorry.

Mr. HOEFFEL. No. Thank you, Mr. Chairman. I appreciate the comment. I would just close by saying that I agree with the Chair that it would be excellent to pick out some particularly egregious examples of corporate welfare and get a coalition to stop it. I also think, though, there has got to be a legislative mechanism so that we don't have to rely on a great crusade to stop these abuses because most of them are hidden away, as you so well identify, and we need something in addition to our annual appropriations process which has not succeeded in eliminating corporate welfare. We need some structure, but I thank you, Mr. Nader, for being here.

Mr. NADER. I think the comments of the Chairman are well taken. I would only add that, in addition to focusing on one or two high profile targets in the corporate welfare area, I would I also favor this approach, the procedural approach, sunset, disclosure, reciprocity, all that because, you know, if you throw enough amendments in the field, you are going to divide the opposition. You are going to get a few through, and the few through help open up the field for the substantive assault on these boondoggles. But I think it is important we gather together with "the other side" as you say and pick one or two that can be mobilized and focused on.

Chairman KASICH. The gentleman from New Hampshire is recognized.

Mr. SUNUNU. Thank you, Mr. Chairman. Thank you very much for your testimony, Mr. Nader. It was very helpful; nothing if not thorough. And it didn't leave a lot of areas for further exploration, but I do want to highlight one area that you touched on, and that has to do with the basic reason that these subsidies are harmful.

We heard about the capital allocation and productivity issues. It certainly hurts the economy when we are distorting the economic effects of investment. We heard about the high tax rates, the fact that we are collecting more taxes than we need to in order to provide these subsidies, but you mentioned the issue of economic justice and basic fairness. The fact that a number of these subsidy programs tend not to just distort the economy but distort the economy in a way that disproportionately hurts those that arguably need economic assistance the most. And I think that is at the heart of a very strong moral argument for looking at these programs, eliminating them and either channeling the funds into programs that really do make a difference or ultimately giving the funds back to individuals so that they can make decisions that are in their own best interest.

I think the example you used was in Detroit or in the Michigan area. There is a great irony here, though, because you have used this moral argument for explaining why these subsidies are bad, but oftentimes those that support the subsidies the most try to make an economic argument on their own behalf, trying to suggest that, no, these are actually helpful, we are creating jobs, we are stimulating the economy, we are supporting opportunities.

That is tough, very difficult to counter that economic rhetoric unless you can cite specific examples as you did very eloquently. Could you please elaborate on that, the example you gave earlier, talk a little bit more about how these distortions oftentimes hurt those who need the economic assistance the most?

Mr. NADER. Well, first of all, take the Marriott hotel chain. They got a $38 million tax break to stay in Maryland. Now, what if you owned a 20-room inn a mile from one of the Marriott hotels? How would you feel? You don't get a tax break. You have to pay your bills. There must be a simmering of displeasure among many small businesses who see their competitors get the breaks and the subsidies, et cetera, when they can't. To highlight this, I often imagine what would happen if in New York City 500 small businesses got together, petitioned to Mayor Giuliani and said if the city does not give them a big tax break, they will move to New Jersey. You see, it is only if you are big enough that you get these breaks.

The other thing is I think the record shows that joint government business R&D like these partnerships with the auto industry are the worst idea imaginable. They freeze innovation. They freeze competition. They tell the three auto companies, hey, you don't have to compete with one another anymore, you are in with Uncle Sam in enormous number of meetings producing nothing. Six years into the program, $1 billion almost expended, there is almost nothing to show for the clean car program. In the meantime who is coming in with a 75 mile per gallon car next year? Honda and Toyota. They are not part of this so-called clean car initiative. So it actually restrains innovation.

Now, there are some government programs that are valuable. If you want to make one distinction, subsidies by the many for the many—that was, until recently, the postal system for years—may often be meritorious. Subsidies by the many for the few are very mischievous, very unfair, and they have a lot of unintended consequences, as well as entrenching interests.

Mr. SUNUNU. I would like to hear you talk a little bit more about the partnership for a next generation vehicle. It is a very significant investment in automotive technology, and we all recognize the importance of the automobile to this society.

But I think there is no denying the fact that the corporations within the automotive industry right now are enjoying very significant success. Now, there is a little irony here because you are one that at least part of your notoriety or famous name is due in part to your interest in automotive technology back in the 1970s. But at the same time, you are pointing out the inefficiencies and the market distortions associated with this particular program under which partnership for the next generation vehicle we are spending upwards of $200 million to develop technologies that ought to be developed under a competitive environment nonetheless.

I want to talk a little bit about that irony, and under what circumstances do you think that the Federal Government ought to be subsidizing, in this case automotive technology, but any applied technology in general.

Mr. NADER. Well, first, I objected to that program when it was first announced in 1993. I wrote a letter to the White House giving my reasons. One reason is that it effectively exempts the domestic auto industry from the antitrust laws. The major auto companies have a very notorious history of product fixing. Basically, through their trade association, they agreed not to develop and market pollution control devices. If one went first, the others were going to have to follow, and there is all kinds of tumult, et cetera. So they agreed not to compete.

And I also suggested that if the government wanted to develop a clean car and they realized that the auto industry, notwithstanding its massive profits, was not willing to put R&D money in, was not willing to fund MIT, your alma mater, or something to develop a clean car, you know how I would do it? I would do it the way canned food was developed.

When Napoleon, unfortunately for a very bad purpose, Napoleon wanted canned food to take his armies to Russia because they couldn't rely on a steady diet, he had a contest. When the utilities wanted to see developed an efficient refrigerator a few years ago, they had a contest. I think Whirlpool won it.

So if the government wants to really stimulate innovation and they can't get the industry to do what is necessary, have a technical contest with clear specifications so that all the best ideas and proposals come to the forefront.

Mr. SUNUNU. Thank you very much. Let me ask one final question and that has to do a little bit with the angular approach to this problem. We have passed in this committee a budget process reform bill. It is going to see votes on the House Floor in the coming weeks. It does include some provision for encouraging committees to perform oversight and to come up with a schedule for reauthorizing programs so that we don't see funds continually appropriated for those that aren't authorized. Beyond those ideas, is there anything that comes to your mind that you would like to see included and an overhaul of the budget process so we don't see—so that we minimize the likelihood of funding the corporate welfare we have been talking about but also so that we have a process that is as open and as efficient as possible?

Mr. NADER. Yes. In fact, the reason why we now know anything about tax expenditures is because there is a requirement for the Treasury to report tax expenditures, but they don't report it by company; they report it by category. So now there is a little bit more fertile public discussion and debate.

The first thing I would say in response to you is to require a pattern of disclosure, so that Congress and the public knows what the benefits cost, and who is getting what. That could be a very good part of the budget. Another part could be a sunset provision. Another part could be an explanation by the disbursing agency as to the effects of the corporate welfare. Citizens for Tax Justice Executive Director Robert McIntyre will testify later in the day, but a lot of these tax breaks, say, for the energy industry, didn't produce

what they were designed to produce, whether it was domestic exploration instead of foreign exploration or whatever.

A lot of the investment tax credits don't produce increased investment and productive appointment and so the question is to say to the bureaucrats, OK, you have been doing this program now for 10, 15 years on the basis that it is going to fulfill a certain purpose. Has it fulfilled a purpose?

Mr. SUNUNU. But to slightly distort an old adage, figures lie and bureaucrats figure. You can always look at a program and construct some argument that, well, the funds that we disbursed moved through the hands of eight different corporations, and their total employment is 1.2 million jobs and to essentially take credit for opportunity growth and activity that is already there but to nonetheless create what looks like a strong economic argument for these programs, and I have seen that time and again. My concern with that would be that the quality of the information wouldn't necessarily be up to your standards or mine for that matter.

Mr. NADER. That is true. You can never avert that risk. However, Stanley Surrey when he was at the Treasury Department did come out with reports saying that certain investment credits, tax credits, et cetera, just didn't work. There are opportunities for more candid and trustworthy government officials to have their say.

I would also have a public docket. Under the Administrative Procedures Act, if you are dealing with regulation, say a proposed safety standard, the relevant agency has a public docket, everyone gets their licks in, then they put out the final standard, and it is subject to judicial review. There is no such process dealing with subsidies, not for billion-dollar loan guarantees for liquified natural gas tankers, or for others. As a result, people who don't like what is going on in universities and corporations in terms of technology transfer have no voice. There is no administrative opportunity before the agencies and departments to have an input.

Procedural due process is probably one of the greatest contributions of the rule of law in the history of the world. We always have to ask the questions if there is an abuse, is there a procedural due process? Is there a public docket? Does the agency have to justify its actions? You know that when there is some officials who dissent from the official line—let us say there is a six-person agency or a three-person agency, there is an opportunity for dissent. In the corporate welfare area, it is fiat, fiat, fiat, that is the way it comes out.

Mr. SUNUNU. Thank you. Thank you very much, Mr. Chairman.

Chairman KASICH. Gentleman from North Carolina is recognized, Mr. Price.

Mr. PRICE. Mr. Nader, I want to thank you for your appearance here today, for your comprehensive, well-prepared, well-presented testimony. That doesn't surprise me. I learned a great deal from you years ago as a Senate staffer on the staff of Senator Bob Bartlett as we were laying the groundwork for the Radiation Protection Act, as you may remember; and we had hearings on that subject in 1967.

You may have noticed that two of the pioneers who testified in those hearings Merril Eisenbud and Carl Morgan both recently passed away. But I am glad to have you here today and to have

you open up this rather complicated subject which we do need to attend to, and I appreciate the Chairman for scheduling these hearings.

You began your testimony with an attempt to define corporate welfare, made a couple of runs at it, and then came up with what seemed to me to be well-conceived screens that might be applied. I gather your point is not to say that anything that one might define as corporate welfare is per se—that that doesn't automatically argue for its elimination, but it does place a certain burden of proof on the policy, and these screens suggest ways in which it might be further explored.

You furnish some very clear examples, it seems. Mr. Chairman, if we are looking for something to head the list, it seems to me that the 1872 Mining Act surely would be a candidate where these companies are mining Federal lands basically free of charge. There are many convincing examples.

What I want to ask you to do, though, is to deal with some cases that might be more difficult and to help us figure out how these screens might work. There are all kinds of groups, of course, using this designation of corporate welfare and arguing on that basis that subsidies or tax expenditures ought to be eliminated.

Let me just ask you about a couple of examples that seem to me much more difficult. One screen you might have added, it seems to me, is whether a given program, even though it fits, might actually save greater expenditures given the alternatives. Crop insurance might be an example. Crop insurance definitely helps our farmers, I think, in important ways. It also happens to avert greater expenses that might come about through disaster relief, and that is the whole rationale or one of the major rationales for crop insurance. The expenditures are significant, but the expenditures, if crop insurance weren't there, are surely even greater, and then obviously you also factor in the factors of public benefit.

And then also, what about policies where the corporate welfare aspect is incidental to a larger purpose? I am not sure the screens quite catch that either. For example, the Citizens for Tax Justice have been very critical of tax exempt bonds for State and local governments. Well, surely the bondholders do benefit, but the much larger purpose, of course, is to enable State and local governments to raise revenue for public purposes.

I don't know if those two examples trigger any thoughts that you might want to share, but it does seem to me that while there are some very clear and very egregious examples, we also do need to define rather carefully at the margins what kinds of policies do and do not fall within this rubric and what it would take to justify them.

Mr. NADER. Well, you have made two very fine points. You know, sometimes these business welfare programs occur because the private sector is not willing to come forth. Crop insurance is such an example. Farmers had a great deal of difficulty getting any private crop insurance. It was a hard thing to actuarially package, and so the system in place now was launched. So sometimes when the marketplace itself does not provide either any entry or a reasonably priced entry, the government moves in, and that is true for Price Anderson. It is true for crop insurance.

Right now, if you look to crop insurance, you would have to re-evaluate it and say, number one, can the farmers through their co-operatives—and they have large cooperatives—provide their own insurance? Two, is the private sector, now that it has seen that crop insurance, is actuarially assessable, et cetera, able to provide a better service than the present system? So that is part of re-evaluating something that was a very needed public service for farmers, given locusts and storms and other disasters, which as you say would have come right back to the taxpayer in terms of even greater expenditure.

On municipal bonds—I am sure Bob McIntyre can elaborate on this, as well as the many other good people who are coming later in the day. It is important to raise the question, given some of the scandals in the municipal bond area now and the lack of competition, because the market is often cornered by a few firms, can the economic advantage to local communities of using tax exempt bonds be directly handled rather than indirectly through some direct Federal, State and local relationship? I am not certain that that would come out that way, but again, what might have been a good idea 20 years ago might have led to an abuse today. Market conditions change, more certainties are realized. Let us look at it again. I think that is important.

There is no question that Federal subsidies programs have launched new industries. As I mentioned, some of the most burgeoning industries in the country wouldn't be anything like they are today without government research and support for vital technology. The 707 came right out of a military plane. The whole semiconductor industry and the computer industry benefited from the infusion of government R&D. NIH has played a leading role in developing health science industries.

Then you say, what about reciprocity? Why is it a giveaway? What rights do the public have to public broadcasts on the public airway? What rights do the public have to the Internet, which is heavily subsidized and created by the public?

I think what Chairman Kasich has done in this hearing is resurrect an old-fashioned tradition at Congress, which is to take an issue and begin looking at it with great detail and great input by the membership. Pretty soon you will get input from around the country because they will hear about it.

So we don't come in with some categorical notion of everything out, or everything in. What we do is establish a set of principles from fairness to strict economic returns for government assets that make this issue much more effective and workable. I mean, the idea of billions and billions of dollars going into coal and oil and nuclear and very little in the last 50 years going into renewable and energy conversation by comparison is just bad economics. It is bad environmentalism. It is a bad use of taxpayer dollars.

We could now have the biggest solar export industry in the world. Instead, we are slipping behind Japan and five European countries, but we have had all these boondoggles, the so-called clean coal initiative which will be examined later, the infamous synfuel boondoggle, billions of dollars down the drain, which came because there is no congressional input and no public review.

It is largely secret, and bad mistakes are made by subverting democratic processes, subverting procedural safeguards and substantive input. As the old saying that was attributed to President Jackson goes, "If a country's in trouble, the solution is not less democracy, it is more democracy."

Mr. PRICE. Well, I appreciate that elaboration. We might in the end agree or disagree on specific policies that would pass these screens or would pass the test, but I think you usefully suggested some questions we ought to be asking and some burdens of proof we ought to be imposing. Thank you.

Chairman KASICH. We are going to have three Members up shortly, so I would ask members to—we will move along and have Mr. Nader kind of limit his remarks. Mr. Moran, gentleman from Virginia, any questions?

Mr. MORAN. There was a list of 13 witnesses, but it was not balanced. I don't see any witnesses that actually have some experience in the use of these programs. What we have is a list of witnesses like Mr. Nader who has done some extraordinarily good research and is very articulate and persuasive, and we have Members who have already made up their minds and have introduced legislation.

But I think a hearing like this is going to be more effective if we have individuals in businesses that are directly affected by this, using these programs and have an opportunity to justify it, and let us decide whether they make their case or not.

I understand there was somebody that you had invited, a tech executive, but they didn't come, although they were never on the original list. So I think if I am going to do this, it would probably be more effective to at least give the appearance of more balance because I would like to hear from them and better understand how these programs are supposed to work.

I agree with Dave Price that I can't for the life of me figure out how we can justify economically to the majority of the population maintaining the 1872 mining law. Most of the companies that have benefited from it are foreign firms anyway, and they get in many cases billions of dollars using public property that they are mining and are paying, what, two fifty an acre or something in some cases. This is absurd. I mean, it is almost criminal to be able to take that from the public, to use it for such high profit making companies that make such high profits and have a very substantial profit margin, it appears. So that is pure politics. It is Congress' fault. It is inexcusable. It would seem we ought to do something about it.

Likewise, some of the timber programs where we pay for the roads, and the royalties we get don't come close to paying for the cost of the roads, and oftentimes in the virgin forests or forests that clearly have an ecological benefit to the entire population; so, again, it would appear to be pure politics, and even in timber programs, increasingly these seem to be Canadian, Japanese firms, particularly Japanese firms, and they are processing the lumber in their country, which is where the jobs are. The jobs aren't so much in cutting down the trees. It is the processing and selling the lumber and marketing the paper and so on.

The third one is in grazing. How private landowners can compete for offering grazing on their land when the public gives it such a deep, deep subsidy is again scandalous to be doing that. Of course,

poor Mike Synar used to do that every time, and every year he would try to correct it, and the people in his district were furious at him. They had the benefit, they didn't want to lose it, and people like you are a real annoyance when people have a nice benefit going, a nice thing going for themselves and somebody like you comes up and say, hey, wait a minute, this isn't fair; this ought to be corrected.

And I know that there are few of us on the Hill who have the kind of intellectual strength and courage that you have consistently shown throughout your career. Basically, that is been your career, and I applaud you for doing so, Mr. Nader. I do think sometimes you go a little over the top on some of this stuff—you get a little carried away—and that is why I want to hear from some of the beneficiaries of these programs so we can make sure that we have got a balanced presentation.

Some of the foreign programs where we offer subsidies, OPIC really pays for itself, and so while you can argue that that money may not be used most efficiently, we do get enough money back that I think it washes, but when you get into the IMF—and I guess you are not recommending eliminating ESM—but I think you reference some programs like the IMF and so on, probably the enhanced structural adjustment, et cetera.

We have got an awful lot of poverty throughout the world, and we could give it in direct grants and too often those direct grants, at least during the Cold War period, went to people in power, and they used it and little of the money stayed in the country except in their palaces and most of it wound up over in Switzerland in the case of some countries.

So I think if we are going to provide aid, it ought to be in the form of loans, even if we write off those loans and deeply subsidize the interest cost. But you know, if we become too perfectionist in our approach, there is very little we are going to do, particularly in terms of foreign countries where we have very little control over their forms of emerging democracy and free enterprise systems.

So I just want to see some caution in this, but nevertheless, I would like to see a lot more progress than has been accomplished. I liked your article, a terrific article, but it brings to mind some testimony that Donald Trump gave in the early 1990's when we had the credit crunch and the recession, particularly in commercial offices, and he said, you know, the problem is the 1986 law—I am looking for a light; I don't see a light, but I guess you are being generous, thank you—the problem is the 1986 law. He says that, you know, I made more money from the 1986 law that gave an across-the-board benefit to wealthy people like me than I did under the preceding tax code, but I have done much less to generate jobs and to act in a way consistent with the public welfare.

Even though I would still be making money, I wouldn't be making as much money and my money would be much more targeted if it hadn't been for that 1986 law, and he suggested we ought to target tax incentives. He said if you target tax incentives, I am going to where the money is. Where if tax incentives are—I am going to spend more of my money in ways that are consistent with what public officials consider to be in the greatest good.

Likewise, technology executives, particularly when they were asked what would you like, they made us the most selfish recommendation, which is human nature. We would like an across-the-board tax cut, so we pay less personal taxes, and we eliminate a lot of tax incentives. Subsequently, those industries came back and said, you know, that really wasn't what was in our best interest. It hurt jobs, it hurt our industry, and we wish that we could put back some of those targeted tax incentives.

This is the argument I am making with you. I am sort of using you as a foil here because I am really directing it at our Chairman, who vastly prefers across-the-board tax cuts instead of targeted tax incentives.

Chairman KASICH. Gentleman's time is definitely winding down. Jim, we have got some Members here.

Mr. MORAN. But that is what I am trying to elicit from you. If you are going to have one or the other, don't we accomplish more with targeted incentives than across-the-board tax cuts? How is that for winding up real quick?

Chairman KASICH. Good job.

Mr. NADER. I am going to answer this very quickly. The biggest abuses come from these targeted tax cuts. They are not followed through to see whether they register. Most of those haven't registered. The safe harbor targeted cut in 1981 was a disaster in terms of its pretension to increase investment in productive equipment. General Electric made $6.5 billion in those 3 years, received a $120 million refund, paid no Federal income tax, and then invested in buying RCA. What they would have paid to the government they used instead to buy RCA. That further concentrated the number of contractors to the Pentagon and didn't create new jobs or new productive equipment.

So I would hold that targeted tax cuts should be very, very narrowly tailored, like if we want to build a solar energy—incubate a solar energy industry and there is a definite way to measure it, that is a good targeted tax cut, but overall it is an invitation to broad abuse.

Mr. MORAN. Well, I can see——

Mr. KASICH. The gentleman's time has kind of expired here. I know he didn't get the answer he wanted, but that is OK.

Mr. Collins, do you have any questions?

Mr. COLLINS. Just briefly.

Chairman KASICH. The gentleman is recognized.

Mr. COLLINS. You mentioned targeted tax cuts. I think tax cuts should be targeted to working folks in this country, but I also think that there should be some targeted tax incentives to create jobs for working folks in this country.

Jim, you just mentioned you would love to hear from some how tax incentives or the lack of tax incentives affect their particular industries. I just left the Ways and Means Committee, and some of that is going on over there right now, especially in the area of international trade as how foreign tax codes differ from U.S. Tax codes.

In Mr. Nader's remarks here he refers to the Daimler, Daimler Chrysler corporation and an interesting question was, why is it not

a Chrysler Daimler, Daimler corporation which would be a U.S. Corporation versus a German corporation?

I am sure that several things went into making the decision as to why it is headquartered in Germany or one of the large parts of that decision was not even a consideration. It was the fact that the U.S. Tax codes are very brutal to corporations, especially those as compared to tax codes in Germany and other nations. So there is a lot of consideration that is going on in not only just England. Chrysler, which you have other corporations like BP and Case and Volvo, all of those, the headquarters are in other countries rather than here. Eventually I am afraid you will see more and more of those U.S. Jobs go to those nations where there is a more favorable tax code, tax incentives, tax provisions that some people would call corporate welfare.

Thank you, Mr. Chairman.

Mr. KASICH. I want to thank you for coming today. We are going to have testimony from Mr. Sununu, Mr. Shadegg, and Mr. Miller, and I encourage you at some point to perhaps give Mr. Miller a call. He has been fighting a long struggle on the issue of sugar that I think would be very interesting for you to talk to him, and I will also let the panel that is going to come soon of the conservatives know of your interests to on one level see if we can find one or two issues where we can raise some public support to make a change, and I want to thank you for your appearance here today and your exhaustive testimony and we will just see where this whole thing will lead.

Mr. NADER. Thank you. I think this is a good beginning today and we hope to follow through on some of your suggestions. I thank the members of the committee as well.

Chairman KASICH. Thank you, sir. We are now going to recognize Mr. Sununu from New Hampshire, Mr. Miller from Florida, and Mr. John Shadegg, Congressman Shadegg from Arizona. I think that to get started, we will recognize Mr. Miller. Congressman Miller from Florida can proceed.

STATEMENT OF THE HON. DAN MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MILLER. Thank you, Mr. Chairman. Let me thank you for having this hearing. It is a special week for you, I think because the President announced earlier this week, and CBO will be announcing tomorrow, that we are going to have the first real budget surplus in 25 years. This is something I know you have been working on in your now seventh year in the Budget Committee so it has to be a very satisfying week for you.

However, what I am here to talk about is the corporate welfare program, the sugar program, which I call the sugar daddy of corporate welfare. It is a program that is bad for consumers; it is bad for taxpayers; it has cost jobs that are lost in this country. It is bad for the environment and it is really bad economic and trade policy. Basically the way the program works is we can't grow enough sugar in the United States so we have to import sugar. But we restrict the amount of sugar that is brought into this country to maintain a high price of sugar. The price of sugar in the United States is over four times the world price. You can go to Canada and

you can buy sugar today for about five cents a pound. In the United States we pay over 20 cents a pound for sugar. The price of sugar has been maintained at that rate for the past many years because of Federal policy. It is something I say costs a lot for the consumer.

Now, we passed a farm bill back in 1995, and it was a very good program. We really reformed a lot of agriculture. I think it was one of the major pieces of legislation this Congress passed over the past several years because it did reform some antiquated programs. However, the sugar was one program that was barely changed.

This program costs the American consumer over a billion dollars a year. Sugar is used in everything from cereal and candy. It is a regressive type of tax too, so it is something that costs consumers and is going to cost the Federal Government because we are major purchasers of food products whether it is in food stamps, veterans hospitals, the WIC program and such. It is corporate welfare because 42 percent of the benefits goes to 1 percent of the growers. In my home State of Florida, two companies control 75 percent of the sugar. So it is not like you have a little family farmer in the sugar business. One family has over $65 million a year benefit from the sugar program, according to the GAO estimates.

This is not only corporate welfare in the United States, it is corporate welfare around the world because we give quotas to other countries. So if someone grows sugar in Australia where they have a free market of sugar, they sell it around the world for about a nickel a pound; however, in the United States we pay 20 some cents a pound for it. In the Dominican Republic, which has the largest of the quotas, most of that quota is controlled by the same family in Florida that is a dominant sugar grower in Florida. That is a corporate welfare that helps a select few people all over the globe.

There are jobs being lost, first in the refinery business because we have lost sugar refineries all across the country. We had 11 of them close, good paying jobs in this country because of the sugar program specifically. It also affects jobs because of companies that use sugar will not continue production in the United States. I will give you a classic case and it is from Georgia and it is a company called Bob's Candies. It is a third generation company that makes candy canes. They can't continue making them in the United States because the sugar is so expensive. They have to move them outside the United States because sugar is so much cheaper to produce them there and then bring the candy canes into the United States.

Environmentally it is a costly program for Florida because of the Everglades. The sugar program creates incentives for overproduction and overutilization of the land which then creates all the damaging runoff on the Everglades. We will be announcing tomorrow a big effort to restore the Everglades. The Vice President will be up on Capitol Hill tomorrow to make the announcement but we will be spending billions of dollars over the years.

In addition, this is another crazy part of the program, is the solution to the Everglades problem, is we are buying a lot of the Everglades sugar lands so we have more areas to detain the water and filter the water. We are buying the land from the sugar companies

at inflated prices because of the sugar program. I mean, it makes no sense, the whole program. And then trade. I am a supporter of free and open trade and fair trade, but when we go and open up markets for our products around the world and that is what our trade policy should be is to open up markets for our products, other countries say, wait a minute, you restrict us to sell sugar to the United States. Why should we open up our products to you? We are the most open country there is on trade in the United States, in the world, and yet sugar, we restrict it. It is hypocritical of our government to be defending the sugar program and at the same time trying to say open up your markets.

This is a program that's bad big government. As I say, it is bad for the consumer. It is bad for the taxpayer. It is bad for the environment and it benefits a limited number of sugar barons in this country. It is a program that we fought very hard and my colleagues here worked with me in 1995 during the authorization. We were not successful. I appreciate your support in the past, and I look forward to having the challenge one more time to finally eliminate this sugar daddy of corporate welfare.

I ask that my official statement be put in the record. Thank you, Mr. Chairman.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF HON. DAN MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Chairman Kasich, ranking member Spratt and fellow Members of Congress, I am glad to be back before this Committee on which I served during the 103rd, 104th and 105th Congress. I miss my assignment on the Budget Committee and the opportunity to participate in critically important debates such as the issue of corporate welfare.

I am here today to discuss the sweet deal that sugar producers are receiving under the sugar daddy of corporate welfare; the U.S. sugar program.

Contrary to what the big sugar producers may tell you, the sugar program was not reformed in the 1996 Farm bill. While other farm commodities will gradually experience a phase-out of price supports, big sugar producers will continue to reap the benefits of this corporate welfare program.

Through price supports, the sugar program keeps the price of sugar in the United States artificially high. By tightly limiting the amount of sugar that may be imported into the United States, and subsidizing the operations of sugar producers through Federal loans, the sugar program forces the price of domestic sugar to be at least twice as high as the price of sugar on the world market.

While this is a sweet deal for sugar producers, it leaves a sour taste in the mouths of taxpayers, consumers, American workers, and the environment. GAO estimates that the sugar program costs consumers more than $1 billion every year in higher prices for food and table sugar. Jobs for American workers have been eliminated because of sugar refineries that have been forced to shut down and because of companies relocating overseas where sugar is cheaper.

The environment is damaged by sugar production in Florida. The subsidized production of sugar in Florida results in phosphorous-laden run-off flowing into the Everglades, which contributes to the destruction of this fragile ecosystem. Amazingly, the Federal Government continues to subsidize sugar producers, even as Congress participates in a multi-billion dollar project to repair the damage done to the Everglades. Tomorrow, the Army Corps of Engineers will announce a long-awaited and ambitious plan to save the Everglades.

Further, the sugar program harms our position with foreign governments when negotiating trade agreements. Much of the financial hardship being experienced by our nation's farmers is due to contraction of overseas markets for U.S. agricultural exports. We need to work to open the markets in foreign nations. It is hypocritical and counterproductive for the United States to protect the sugar industry while urging other countries to reduce their trade barriers. Quite simply, our negotiators must decide whether it is more important to preserve an outdated sugar program than to open markets for competitive American farm products.

For the past several Congresses I have introduced amendments to the Agriculture Appropriations Bill as well as stand alone legislation to reform the Federal sugar program. This year I introduced H.R. 1850 with Congressman George Miller (D-CA). This Miller-Miller bill currently has 57 bi-partisan co-sponsors including Chairman Kasich and seven other members of this subcommittee. Senator Charles Schumer, Senator John Chafee, Senator Judd Gregg and Senator Dianne Feinstein have introduced companion legislation in the Senate. H.R. 1850 has the support of national taxpayer, consumer, and environmental advocacy groups.

As my time is limited I will concentrate on the corporate welfare aspects of this program. Specifically, how the sugar program costs consumers over $1 billion dollars a year and it benefits a select few sugar producers. Moreover, I will discuss how the sugar program kills U.S. sugar refinery jobs.

COSTS TO TAXPAYERS

The GAO has estimated that the present sugar program costs over $1 billion per year in higher prices for table sugar and food. This cost has been confirmed by Public Voice for Food and Health Policy. Not only do higher costs affect the prices paid at the cash register, they affect the taxpayer in the costs of government. Higher food costs mean higher entitlement spending under Food Stamps or other government programs such as school lunches and Meals on Wheels. It is a regressive form of corporate welfare benefitting a select few producers while making every consumer pay more at the cash register to justify this program. The U.S. Department of Commerce has noted that the "effect of the sugar program is similar to a regressive sales tax, which hits lower-income families harder than upper income families." If you support regressive taxation, then I guess you have no problem with the U.S. sugar program. If you do not favor taxing the poor more heavily, however, you should favor changes in our sugar policies.

Finally, the flight of businesses out of the country due to the high domestic cost of sugar results in lost revenue at the local, state and Federal levels. Although no calculation of this lost revenue is currently available, it is significant in light of the many thousands of displaced workers.

BENEFIT TO A SELECT FEW

The GAO reported that 42 percent of the sugar programs benefits went to just 1 percent of the sugar producers in 1991 and 33 big sugar barons each received more than $1 million in extra revenues under the program. One producer even received $65 million in 1 year.

Time Magazine did a story last November on the Fanjul family that outlined how the U.S. sugar subsidy has helped propel this family into the ranks of the multi-millionaires. I commend it to your reading as it fairly captures how the sugar program helps a few well connected folks while sacrificing the good of the rest of the country.

I must emphasize this because you will hear; "Don't kick farmers when they are down" or "the family farm needs support, not a kick in the teeth." Great sound bites, but totally inappropriate with the sugar program. Sugar plantations are not family farms in the normal sense of that phrase. In 1995, the USDA compared the non-cash economic benefits that accrue to farmers of various commodities thanks to government action. Wheat gets $23 per acre in government benefits, cotton farmers $87 per acre. Sugar gets $472 per acre. Moreover this artificially high price per acre of sugar acreage complicates efforts to restore the Everglades by creating an economic incentive to utilize more Everglades for sugar farming. And this benefit goes to a select few sugar barons.

JOBS LOST

The two main American industries adversely affected by our sugar program are sugar refineries and manufacturers of products that utilize sugar.

Often, sugar refineries are unable to find a consistent and adequate supply of sugar to operate year round. The variations create economic inefficiencies and waste which result in these facilities being unable to stay in business. Moreover, refineries process sugar and require sugar cane and beet to operate. Needless to say, buying this raw material in the United States is overly expensive when compared to the world price. Why would a company buy large quanities of sugar cane at $ .22 per pound when they can buy at $.045 per pound in a foreign nation and take advantage of other favorable economic factors such as labor costs and government regulation?

Accordingly, it is not hard to see why our sugar system is sending refinery jobs overseas. As recently as 1981 there were 23 sugar refineries in the United States. Today, there are only 11 refineries. Over 3,500 jobs have been lost by closures at the refineries due to a sugar program that only benefits a select few. (See Exhibit A, which follows:)

CANE SUGAR REFINING INDUSTRY, 1981/1999

REFINERY LOCATION	COMPANY	CAPACITY [a]	
~~AIEA, HAWAII~~	~~C & H~~	~~142~~	CLOSED 12/96
BALTIMORE, MARYLAND	DOMINO (TATE & LYLE)	3,000	
~~BELLE GLADE,FLORIDA~~	~~FLORIDA SUGAR~~	~~390~~	CLOSED 3/86
~~BOSTON, MASSACHUSETTS~~	~~AMSTAR (DOMINO)~~	~~1,000~~	CLOSED 3/88
~~BOSTON, MASSACHUSETTS~~	~~REVERE~~	~~1,200~~	CLOSED 5/84
BROOKLYN, NEW YORK	DOMINO (TATE & LYLE)	2,000	
~~BROOKLYN, NEW YORK~~	~~REVERE~~	~~1,120~~	CLOSED 3/85
CHALMETTE, LOUISIANA	DOMINO (TATE & LYLE)	3,000	
~~CHICAGO, ILLINOIS~~	~~REVERE~~	~~850~~	CLOSED 5/84
CLEWISTON, FLORIDA	EVERGLADES	850	
CLEWISTON, FLORIDA	U.S. SUGAR	1,800 [b]	
CROCKETT, CALIFORNIA	C & H	3,400	
GRAMERCY, LOUISIANA	COLONIAL	2,150	
~~MATHEWS, LOUISIANA~~	~~LOUISIANA SUGAR CANE~~	~~600~~	CLOSED 9/85
~~PHILADELPHIA, PENNSYLVANIA~~	~~AMSTAR (DOMINO)~~	~~2,100~~	CLOSED 10/82
~~PHILADELPHIA, PENNSYLVANIA~~	~~NATIONAL~~	~~2,100~~	CLOSED 9/81
PORT WENTWORTH, GEORGIA	SAVANNAH	3,100	
~~RESERVE, LOUISIANA~~	~~GODCHAUX HENDERSON~~	~~1,900~~	CLOSED 1/85
~~ST. LOUIS, MISSOURI~~	~~INDUSTRIAL~~	~~300~~	CLOSED 3/87
SOUTH BAY, FLORIDA	FLORIDA CRYSTALS	925	
SUGAR LAND, TEXAS	IMPERIAL SUGAR	1,950	
~~SUPREME, LOUISIANA~~	~~SUPREME SUGAR~~	~~850~~	CLOSED 10/95
YONKERS, NEW YORK	REFINED SUGARS	2,000	

[a] 24 – hour melting capacity, short tons, raw value, as reported by USDA.

[b] As reported by Sugar Journal

3/30/99

Similarly, manufacturers of products that rely on sugar are greatly affected by the present sugar subsidy. Ask any businessman would they rather buy sugar at 22 cents per pound or at 4.5 cents per pound and they would all agree they would like the cheaper sugar. Even with a duty that raises the cost to over 19 cents per pound when sugar is brought into America, businessmen know that 19 cents is cheaper than 22 cents. And businessmen know that they need to pack up and leave the United States if they want to get that cheaper sugar. Also, the incentive remains to move operations overseas if the company is pursuing an aggressive export strategy.

I think the best example of the present sugar program driving jobs out of America is the story of Bob's Candies. Bob's Candies was the largest producer of candy canes in America. Candy canes are a very cyclical industry and are made to be a low cost

candy. However, the U.S. sugar program throws large roadblocks in the way of domestic candy makers. Accordingly, Bob's Candies moved to Jamacia where sugar is much cheaper. The president of Bob's Candies recently told Reader's Digest that the company would save more than $2 million a year in raw materials if the sugar program was scrapped. This savings would enable the company to keep jobs in America and lower retail prices. Unfortunately, it just makes good business sense to go overseas to get cheaper sugar to make candy. How many Bob's Candy Canes will this Committee tolerate?

Also, the Committee should note that the cost of our sugar program was a main reason why Coke and other soda companies do not use sugar in soft drinks. Sugar got too expensive. The program priced sugar out of the lucrative soft drink industry. Instead, soft drinks now use high fructose corn syrup (HFCS) which does not have the high costs and economic inefficiencies of the sugar program.

Finally, I ask this committee to keep in mind the fact the sugar industry is not large in comparison to other aspects of the economy. According to USDA data there are between 40,000 and 70,000 jobs directly related to the sugar program. This is a small number compared to the 520,000 jobs in the food processing industry or the thousands of lost Everglades related tourist jobs. Congress must not blindly protect a small special interest sugar program at the expense of the greater good.

CONCLUSION

I am grateful for the Budget Committee and its willingness to stand up to the sacred cows of government. I believe sunshine on these programs is one of the greatest ways to fix the outrageous use of corporate welfare to give the select few a benefit at the expense of everybody else. The sugar program is the epitome of this system. It is a regressive system that raises the costs of goods for all consumers, it contributes to the destruction of the Everglades, it causes U.S. jobs to move overseas, and it harms American efforts to open trade markets around the world. Congress must end this sweet corporate welfare cavity. I hope any member with questions about the sugar program will feel free to contact me or my staff at any time. I urge this Committee to support the Miller-Miller bill (H.R. 1850) and all other efforts to end the sugar program. Thank you.

Chairman KASICH. The gentleman from Arizona is recognized.

STATEMENT OF THE HON. JOHN B. SHADEGG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. SHADEGG. I thank you, Mr. Chairman, and members of the committee. It is a privilege to be here with my distinguished colleagues and to speak before this committee. As many of you know, I was once a member of this committee and philosophically I still feel like a member of the committee.

Under you leadership, Mr. Chairman, I think the committee has endeavored to create a smaller, less expensive, less intrusive and more responsive Federal Government, but to achieve those goals it is critically important that we aggressively seek out and eliminate wasteful bureaucratic spending and especially corporate welfare.

Now, you say those words and of course anyone in the corporate world immediate becomes defensive. Many of the projects which we label corporate welfare are indeed well intended and in fact beneficial. But most importantly, I would note the private sector, not the Federal Government should be funding the bill for those projects. I would also note that it is worth some reflection by us that guided in this job as we are by the U.S. Constitution, nowhere in that great document which sets out our specific enumerated powers are we given the authority to subsidize the private sector.

Mr. Chairman, the American taxpayer is being asked every day to pay more and more and a greater share of his or her earnings to the Federal Government. Families are forced to live with both spouses working just to get by and sustain their lifestyle, and I think we have seen some of the consequences of that excessive tax-

ation burden on the families of America, particularly with the specter of the Columbine High School incident and others like it where one has to wonder if the tax burden isn't forcing families to spend too much time out of the home and not enough time at home. I think that is a new and compelling reason for you to focus your efforts on corporate welfare.

I want to focus my remarks largely in the energy area and I am going to cite some examples which are well known to members of this committee. The first one of course is one that we discussed when I was on the committee, and that is the Department of Energy's fossil energy R&D plan. I would note we have had some success under your leadership on this issue. Since the Republicans took the majority of the Congress that budget has been cut by 15 percent but it is still funded at a level of over $1 million per day. Let's look at the program. It is intended to help coal, oil, and gas industries to maintain their market share by allowing them to draw on government funded research on new products and processes. And yet the Congressional Budget Office looking at the Energy Department's fossil R&D program specifically said in a report issued just—in April of this year, Federal programs in the fossil fuel area have a long history of funding technologies that while interesting technically had little chance of commercial feasibility even after years of Federal investment. As a result, much of the Federal spending has been irrelevant to solving the Nation's energy problems.

CBO went on to point out something that I think my eighth grade son in Phoenix would have figured out on his own. They pointed out that private entities are more attuned to which new commercial technology has commercial promise than would be Federal officials.

Another example of wasteful corporate welfare under the DOE is the DOE's coal research and development program, and here I would point out that between fiscal year 1978 and fiscal year 1997, DOE spent $2.7 billion on coal liquefaction. It spent—it authorized to spend $10 million in fiscal year 1999. And yet the President's Commission on Science and Technology released a report in September 1997 in which the President's commission said the Department of Energy should terminate its program for the direct liquefaction of coal. A similar comparison can be made of the department's coal gasification program.

Again, I believe the coal research and development program for coal gasification should be eliminated. Again we are talking about a significant commitment of money. DOE figures show that in that same time period, 1978 to 1997, $1.5 billion was spent on this program. $73.9 million was authorized in fiscal year 1998 and in fiscal year 1999 the number is 91.5 million and yet Greenwire, a respected report commenting on this program, which admires the program because of its clean technology says coal gasification is a virtual failure, pointing out that it has failed to win industry backing over the last 10 years and now comprises less than 1 percent of the current worldwide energy generation market. By contrast, private sector R&D programs in the energy field have been extremely successful.

In my testimony I point out some comments on this but let me just cite one. Business Week in a report issued in November 1997 said technological advances are slashing the cost of finding, producing, and refining oil creating a new economic calculus for the oil industry. The average cost of finding and producing oil has dropped by about 60 percent in real materials in the past 10 years while proven reserves are about 60 percent greater than in 1985.

Another topic of great concern to me is that of the corporate welfare in the form of the Federal power marketing associations—administrations. As I think you well know, I had introduced legislation in this area, Mr. Chairman, and it is driven by the simple point that the Federal Government should no longer be in the business of producing electrical power. I find it interesting to note, Mr. Chairman, that at a time when other parts of the world, including Eastern Europe and South America, are privatizing their electrical facilities, United States, which should be the cornerstone of the free market, continues to subsidize government owned and produced electrical power.

Private utilities, by the way, have proven that they can do a more efficient job of producing hydroelectric power than the Federal Government. In a 1997 report by CBO entitled "Should the Federal Government Sell Electricity?", CBO found the inadequate maintenance of power assets and resulting low use of power generating capacity show how high the cost of Federal power is. And then they made this particular point. Over the past 5 years, non-Federal dams produced an average of 20 percent more electricity per unit of capacity than did dams supplying the power market administrations.

As you know, Mr. Chairman, there are five of these organizations, Bonneville, Alaska, Southeastern, Southwestern, and Western. As you also know, we privatized the Alaska Power Administration already. Bonneville is a special case because it is burdened by nonfunctioning nuclear facilities. But that leaves three PMAs which are prime candidates for privatization, SEPA, SWPA, and WAPA. Privatizing those marketing—those power administrations would accomplish a number of important goals. First, it would get the Federal Government out of the business of producing electrical power. While low cost government provided electricity may have been justified at one point in time for economic development in the 1930's and 1940's, it no longer is necessary. And it doesn't make sense. The PMAs are now subsidizing power in such wealthy areas as the suburbs of Los Angeles, the City of Las Vegas, Silicon Valley, and such resorts as Vail, Colorado, and Hilton Head, South Carolina. Everyone is aware of the absurdity of asking Americans across the country who live in less prosperous communities to subsidize the electric rates of those who live in the area serviced by the PMAs. It would also save Federal taxpayers tens of thousands, indeed millions, indeed hundreds of millions of dollars.

The three PMAs I have identified cost the American taxpayers approximately $300 million each year. And this year alone the Senate has proposed in its energy and water appropriations earmark to increase funding by $92 million above the current budget request for those three authorities. I think this can be done. I think it can be done following concepts which would benefit all of the

country. The greatest obstacle to privatizing the PMAs is to overcome the objections of those now getting cheaper electrical power, but I think it is important to note that while 24 percent of the American public benefits by current low rates, the remaining 76 percent of Americans pay for those subsidized rates.

I would simply quickly point out that the fear of the current PMA customers that their rates will go up is one of the largest obstacles that we have to privatizing the PMAs. And yet other countries around the world have overcome these kinds of concerns. The bill I drafted was built on the success of the Czech Republic, which used a system called voucher privatization. Under voucher privatization those with vested interest in the government owned entity are given a voucher which can be traded for stock. As a result of that, the people currently benefiting from cheap public power would stand to benefit from the sale of the entity because they would own a portion of it. Now, the Czech government used this and it succeeded in moving from an economy that was 96 percent publicly owned at the fall of communism to where 64 percent of the entire economy had been privatized in 5 years by building public support for the privatization of public entities. The legislation lays out how we can achieve that goal and I would strongly urge you to take a look at it.

Let me simply conclude with some general remarks about the Department of Energy. It is indeed I believe a classic example of a wasteful bureaucracy. In the materials you have been given there is a number of stories, but one I particularly like is a story of a program where the Disney organization, Walt Disney, is working in a project sponsored by Sandia National Laboratory in Albuquerque, New Mexico. We as a taxpayer are kicking in slightly over $300,000 to help the Disney Corporation find a better way to launch the 3,000 rockets it launches each night as they close down the facilities at Disney Land.

Now, I have been there, Mr. Chairman, and I enjoy the fireworks display but I am hard pressed to understand why the taxpayers of America should be subsidizing Disney's research. It only made, I believe, 11—$1.1 billion last year as its profit.

In my testimony, Mr. Chairman, I also cite President Clinton's Foreign Intelligence Advisory Board, which just issued a scathing report on the weapons labs, the adequacy of the measures that have been taken there to respond to the security threat. Fundamentally, it found that there was 11 team management structures which was incapable of performing itself and described DOE as a dysfunctional bureaucracy. Those are not my words, Mr. Chairman. They are the recommendations of the President's own advisory board.

Again, I applaud you and the members of this committee for holding this hearing and I urge you to be relentless in going after corporate welfare and wasted bureaucracy.

[The prepared statement of Mr. Shadegg follows:]

PREPARED STATEMENT OF HON. JOHN B. SHADEGG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. Kasich, members of the Budget Committee, thank you for allowing me to testify today. As most of you know, I was previously a member of this committee, and I continue to feel like a member of the Committee. During my tenure in Congress,

this committee, led by Chairman Kasich, has endeavored to create a smaller, less expensive, less intrusive, and more responsive federal government. To achieve these goals we must aggressively seek out and eliminate, wasteful, bureaucratic spending, especially "corporate welfare"—that is, subsidies to private sector endeavors that the federal government has no business supporting.

Before I go any further, let me be clear. Many of the projects funded by "corporate welfare" may be beneficial. However, the private sector—not the federal government—should be footing the bill. I believe in the Constitution, and nowhere in that great document is the federal government authorized to subsidize the private sector. Our country was founded upon freedom. When the federal government begins replacing freedom and individual initiative with government subsidies, we begin to lose the spirit and brilliance of independence, relying on government bureaucracy instead of individuals.

Today, you have heard from my colleagues Mr. Sununu of New Hampshire and Mr. Miller of Florida. Their testimony on the sugar subsidy and various programs within the Department of Commerce focused on just some of the many examples of corporate welfare which riddle the federal budget.

As just one example, as of FY 96, the federal government has spent more than $1.6 billion on the Advanced Technology Program, which subsidizes for-profit corporations, research institutions, and joint ventures. The General Accounting Office recently found that 63 percent of ATP applicants never even sought private sector funding before applying for government aid. Grant recipients include multi-million dollar companies that, on average, have research and development budgets of $3.5 billion. Such "needy" grantees include:

- IBM: $111,279,738
- General Motors: $82,134,245
- General Electric: $75,449,636
- Ford Motor Co. $66,457,718
- Sun Microsystems $50,113,692
- Texas Instruments $45,545,315
- Sarnoff Corporation $38,270,692
- United Technologies $37,011,925
- Phillips $36,518,925

(Source: MSNBC study of data provided by ATP, 1997)

Mr. Chairman, with American taxpayers paying an ever increasing share of their earnings to the federal government, with families forced into having both spouses work just to get by and sustain a decent standard of living, we can no longer defend this level of wasteful spending on some of the wealthiest companies in the world. Indeed the Commerce-Justice-State-Judiciary Appropriations Subcommittee's report stated it well: "in an era of scarce federal research and development dollars, funding ATP is simply a low priority." (Report to accompany HR 1274, 1997) This is a gross example of misdirected federal dollars.

Let me turn briefly to corporate welfare related to energy.

THE DEPARTMENT OF ENERGY IS A FEEDING TROUGH FOR CORPORATE WELFARE

FOSSIL ENERGY R&D

One specific example of wasteful corporate welfare at the Department of Energy is the Fossil Energy R&D program. Although it has been cut by 15 percent since Republicans assumed the majority in 1995, it was still funded at $365 million in FY 97. That's more than one million dollars a day! The DOE markets this program as a plan to "improve the capability of the nation's petroleum industry to produce additional supplies of clean, domestic natural gas and oil."

The Fossil Energy R&D program is intended to help the coal, oil, and gas industries maintain their market share by allowing them to draw on government funded research on new products and processes for the commercial market. Its activities range from research in universities and national laboratories to applied R&D and company specific technology development and demonstration activities.

In April of this year, however, the Congressional Budget Office (CBO) stated the following about Fossil R&D:

> * * * Private entities are more attuned to which new technology has commercial promise than are federal officials. *Federal programs in the fossil fuel areas have a long history of funding technologies that, while interesting technically, had little chance of commercial feasibility, even after years of federal investment. As a result, much of the federal spending has been irrelevant to solving the nation's energy problems* * * * [In addition] because energy prices are low, potential users of such technology have little incentive

> to invest in implementing it. Consequently, the technology developed by the program may well sit on the shelf until it becomes obsolete. (CBO, April 1999)

The President's own advisors have criticize elements of DOE's coal research and development program. As yet another example of misspent federal dollars, the DOE spent $2.7 billion on "coal liquification" research and development between fiscal years 1978 and 1997. In fiscal year 1998 the program received approximately $10 million; in fiscal year 1999 the request is for $7.3 million. Yet according to the President's Commission on Science and Technology report on Federal Energy Research and Development of the Challenges of The Twenty First Century [PCAST], released on September 30, 1997 "The Department should terminate * * * direct liquefaction of coal."

Likewise, "coal gasification" is another area of coal research and development which should be eliminated. According to DOE figures, $1.5 billion has been spent on coal gasification research and development between fiscal year 1978 and fiscal year 1997. Coal gasification funding was approximately $73.9 million in FY 98, and FY 99 funding was near $91.5 million. Yet even *Greenwire* reported in October 1997 that coal gasification was a virtual failure. It reported that "Coal gasification. * * * has failed to win industry backing over the last ten years and now *comprises less than 1 percent of the current world wide energy-generation market.*"

By contrast to these wasteful, government funded programs, even the Clinton Administration has acknowledged the importance of private sector research and development in the energy field. PCAST stated: "In the private sector, energy R&D has been an important engine of progress, enabling firms to improve their products and invent new ones, so as to increase their shares of existing markets, establish and penetrate new ones, and maintain or increase performance while reducing costs."

And, a November 3 1997, *BusinessWeek* article made it clear that companies are moving forward on fossil R&D:

> Technological advances are slashing the costs of finding, producing, and refining oil, creating a new economic calculus for the oil industry. * * * The average cost of finding and producing oil has dropped about 60 percent in real terms in the past 10 years, while proven reserves are about 60 percent higher than in 1985. And these official figures far underestimate the amount of accessible oil in the ground.

Another specific example of the Department's corporate welfare subsidies is the Energy Conservation R&D program. While the program has seen some cuts over the last few years, it should be eliminated altogether. In 1997 Congress appropriated nearly $400 million to finance corporate market development and product promotion programs. One of these programs, "Building America" pays for start-up costs and promotional activities for groups that want to promote energy efficient buildings. Included within the program was money for DOE to enter into licensing agreements with the world's largest air conditioning manufacturers to market a new heat pump. In return, these companies stand to make millions of dollars from this improved product with no payback to the taxpayer.

THE PMAS SHOULD BE PRIVATIZED

One area of corporate welfare about which I feel very strongly is the Power Marketing Administrations (PMAs). Simply put, the government should no longer be in the business of producing electrical power. And, private utilities do a more efficient job of producing hydroelectric power than the government. In its 1997 report, *Should the Federal Government Sell Electricity?* CBO found:

> The inadequate maintenance of power assets and the resulting low use of power-generating capacity show how high the cost of supplying federal power is * * * One consequence * * * is an inability to generate and transmit power at [intended] capacity * * * *Over [the past five years], non-federal dams produced an average of 20 percent more electricity per unit of capacity than did dams supplying the power marketing administrations.*

In the 1930's, the federal government began building a number of dams, primarily in the West and South as a way to stimulate the economy during the Great Depression and promote regional economic development. The dams were built primarily for flood control, irrigation and navigation.

It was also recognized that these dams had tremendous potential for generating electricity. To market this electricity, the federal Power Marketing Administrations were created corresponding to different regions of the country where the dams are located. There were originally five of these agencies: Bonneville, Alaska, Southeastern, Southwestern, and Western. Recently, Alaska has been privatized. The

largest, Bonneville, is a special case, financed in a different way and, alone amongst the PMAs because it includes a number of non-functioning nuclear facilities.

This leaves three PMAs as prime candidates for privatization: Southeastern (SEPA), Southwestern (SWPA), and Western (WAPA). Privatizing SEPA, SWPA, and WAPA would accomplish a number of important goals. First, it would get the federal government out of the business of producing electrical power, a sector of the economy in which it does not belong. While low-cost, government-provided electricity may have been justified for economic development during the 1930's and 1940's, it is not necessary today. Many of the once rural and undeveloped areas which benefit from this low-cost power have grown into thriving areas. These include suburbs of Los Angeles, the city of Las Vegas, and ski resorts such as Vail, Colorado.

There is simply no justification for forcing federal taxpayers across America, many of whom life in less prosperous communities, to subsidize the electric rates for those who live in areas serviced by the PMAs.

Privatizing would also end the constant drain imposed by the PMAs on the federal treasury. Perhaps a more fitting term would be a *hemorrhage* of the national treasury. According to the General Accounting Office, these three PMAs cost the American taxpayers approximately $300 million each year in unrecovered costs and financial subsidies. This year alone, the Senate's version of the Energy and Water Appropriations bill for FY 2000 added $39,594,000 to the Southeastern Power Administration above the budget request, allowed for an additional $60,000 above budget request for operation and maintenance at Southwestern Power Administration, and provided an additional $52,084,000 above the budget request for Western Area Power Administration. In fact, the Senate Energy and Water Appropriations bill earmarks a total of another $92 million above the budget request for regional power authorities.

In addition to ending the constant financial drain, privatizing the PMAs would enable the American taxpayers to realize a return on the investment which they have put into the PMAs over the years. It would do so by bringing in a significant amount of revenue to the federal treasury, revenue which could then be used for debt reduction or tax relief.

Under legislation I introduced in the 105th Congress, privatization would accomplish a fourth vital goal: it would directly benefit the consumers of PMA generated power. Presently, approximately one quarter of Americans get some portion of their electricity from PMAs. While these consumers may have benefitted from the PMAs in the form of lower electric rates, the legislation I introduced, unlike any other bill before Congress, would ensure that they would also benefit from their sale.

As Congress and the states debate deregulating the electric utility industry, it is important to point out that one of the basic premises of a free market in electricity is a level playing field for all utilities. The PMAs pose yet another problem here. PMAs are required by law to sell power to their preference customers at a price close to the cost of production. This is an artificially low price. Not only is it lower than private utilities can match (since the government is required to not make a profit) but, according to the General Accounting Office, this price has typically not covered all of the costs associated with the PMA.

The beneficiaries of these artificially low prices are called the preference customers, which are typically rural electric cooperatives and municipally owned utilities. They are able to buy power from the PMAs at artificially low rates, then distribute and resell the power at higher rates to residential and commercial consumers. Because preference customers can buy power from the PMAs at an artificially low price, these preference customers have an unfair advantage over private utilities which must pay higher prices for their power.

By providing cheap power to the preference customers, PMAs undermine the transition to the free market. The PMAs also often discourage efficiency. They and their customers do not need to be efficient to compete because they get low cost, subsidized PMA power regardless of the efficiency of their operations. The PMAs are inherently inefficient because, as part of the government, they have no incentive to be efficient.

The preference customers serve approximately 24 percent of the American public. The remaining 76 percent of Americans do not receive any benefits, either direct or indirect, from PMAs, but must subsidize the lower rates for the preference customers through their tax dollars.

To solve the PMA problem, I have proposed a three step plan to privatize the Southeastern, Southwestern, and Western PMAs. This plan grew out of a report which I coauthored entitled *Lights Out on Federal Power*. In this report, we examined not only the benefits of PMA privatization but also how to achieve this in a way which would turn the current users of PMA power from potential opponents of privatization into enthusiastic supporters.

The essential difficulty which this report identifies and which must be addressed before any PMA privatization plan will work is the fear of current consumers of PMA power that privatization will cause a significant increase in their electric bills. To address this concern, we examined the experiences of other countries which were faced with the task of privatizing state owned industry. It is curious that, at a time when other parts of the world including Eastern Europe and South America are *privatizing* their electric facilities, the United States—the cornerstone of the free market—continues to subsidize government-owned power.

The approach used by the Czech Republic to privatize state owned industry is the option most likely to enlist the support current PMA consumers. With the fall of Communism, the Czech Republic faced a significant problem. How could an economy in which 96 percent of business assets were owned by the government be privatized in such a way that would gain the support of a majority of the people?

The method which the Czechs developed is one called "Voucher Privatization." Each citizen was allowed to purchase vouchers which could be exchanged for shares of the enterprises being privatized. Enterprises being privatized were sold at auctions in which people were able to bid on shares in the enterprises and pay for them with their vouchers. The price of the vouchers was purposely set very low (around $40) relative to the expected value of the shares (around $1,200) to enable individual citizens to make a significant profit. This approach generated very high levels of public support for privatization. Most Czech citizens took part and most obtained shares worth much more than their vouchers.

In using this approach, the Czech government accepted the fact that it would realize a smaller gain from privatization than it would through a sale to the highest bidder. They recognized, however, that it was better to build public support for privatization by allowing ordinary Czechs to directly benefit. The result was extremely successful. The Czech Republic succeeded in privatizing 64 percent of its economy between 1990 and 1995 and did so with the overwhelming support of its citizens.

During the 105th Congress, I introduced this plan as H.R. 296. An updated version of this legislation will be introduced shortly.

First, as a transition step, the legislation establishes three government corporations which correspond to the three PMAs being privatized. Second, it directs the Secretary of the Treasury to issue warrants to the end-use consumers of the three PMAs. These warrants are the heart of the plan and correspond to the "vouchers" issued by the Czech government during its privatization.

These warrants entitle each end-use consumer to buy shares of stock in the government-owned corporation at a low fixed price called the "strike price." This "strike price" allows end-use consumers to make money by either purchasing shares for less than their free-market value or by selling the warrants to others.

The gains for consumers of PMA power vary depending upon what percentage of their power comes from a PMA but should be enough to cover potential rate increases. For example, the *average* residential consumer of SEPA would receive $179, SWPA would realize $402, and WAPA, including households in Arizona, would receive $156 under this legislation. As consumers of larger amounts of PMA-generated power, commercial and industrial customers would receive a greater number of warrants and would therefore realize even larger amounts.

The third step is the sale of stock in the three government corporations to the public. Once 60 percent of stock in each corporation is in private ownership, its status as a government corporation ends and it becomes a private corporation.

PMA privatization is a reform which is long overdue. While previous Congresses were able to avoid the technical complexities and political difficulties of addressing the issue, the upcoming deregulation of the electricity market makes the PMA problem impossible to ignore for much longer. Deregulation is not a question of "if," it is a question of "when." In this world of free market competition, PMAs are a harmful anachronism. It is our duty in Congress to tackle this problem and change PMAs from an impediment to a useful element of the free market.

THE DOE IS INCAPABLE OF REFORM

Finally, I would like to address the overall issue of the Department of Energy. I have long been a supporter of the proposal by my colleague, Mr. Tiahrt of Kansas, who has introduced legislation to abolish the DOE in the past three Congresses.

The Department of Energy is a wasteful bureaucracy without a true sense of mission. Founded on the heels of the energy crisis of the 1970s, the Department's energy-related functions now account for only 10 percent of its budget. Even the GAO talks about the scattered function of the DOE. In a 1995 report to Congress, GAO stated "almost from the time of its creation in 1977, DOE has been in transition." GAO has also said that the agency is "burdened by mission overload" and has a "di-

minishing sense of purpose." Yet while the agency has struggled and floundered, its budget has grown by 235 percent in the last 20 years.

Furthermore, the DOE has developed into a feeding trough for corporate welfare recipients. Over the last four decades, Congress has appropriated $50 billion in grants and research money, much of it directed towards energy R&D.

Most recently, the ineffectiveness of the DOE and the National Laboratories has grown to dangerous levels. The Cox Report showed that critical security breaches and a lack oversight have resulted in the transfer of sensitive missile technology to the Chinese government. In light of these discoveries, I am more committed than ever to doing away with this department.

In March 1999, President Clinton asked his Foreign Intelligence Advisory Board [FIAB] to undertake a review of, and issue a report on, the security threat at the Department of Energy's weapons labs and the adequacy of the measures that have been taken to address it. On June 18, FIAB issued its report.

The findings of the panel, headed by former Senator Warren Rudman (R-NH), were scathing. For example:

- "The * * * Panel found a large organization saturated with cynicism, an arrogant disregard for authority, and a staggering pattern of denial."
- The "Panel has concluded the Department of Energy is incapable of reforming itself—bureaucratically and culturally—even under an activist Secretary."
- "The Department of Energy is a dysfunctional bureaucracy."
- "* * * the Board is extremely skeptical that any reform effort, no matter how well-intentioned, well-designed, and effectively applied, will gain more than a toehold at DOE, given its labyrinthine management structure, fractious and arrogant culture, and the fast-approaching reality of another transition in DOE leadership."
- "The current form of the Department took shape in the first year of the Carter administration through the merging of more than 40 different government agencies and organizations, an event from which it arguably never recovered."

The report concludes that the weapons complex is so permanently flawed that significant change must occur. Mr. Chairman, these are not my words. They are the recommendations of the President's own Advisory Board.

While the elimination of the Department of Energy may not exactly qualify as "corporate welfare," the savings realized by doing so would be significant. Instead of continuing to reward a broken, fundamentally flawed system, we should eliminate it altogether. Continuing to fund the Department, its many and scattered missions, and its wasteful programs has not yielded positive results. It is a clear example of a bloated and inefficient government organization that has grown unruly and out of control.

Mr. Chairman and Members, I applaud you for holding this hearing and urge you to be relentless in your efforts to end wasteful "corporate welfare" and inefficient federal bureaucracies wherever possible. We must begin to shrink the size of the federal government and I can think of no better place to start than the "corporate welfare" at the Department of Energy. Thank you.

Chairman KASICH. I want to really compliment the gentleman for his testimony. I would recommend to the gentleman that he distribute that. I don't know if the whole testimony but maybe summarize and distribute it to the Congress on the issue of the Department of Energy because I think earlier when I suggested that that department didn't need to exist, the question is, well, how will we do these various functions? There are some functions you are going to keep. The question is do you need everything in order to keep the vital functions? Can you get rid of the things that you don't need?

And I think your testimony was—it was excellent. I think the membership needs to know about it and they need to know precisely how we can make this Department of Energy a lot more efficient and I think you laid out program by program some of the things that should go. And of course since you are all members of the Appropriations Committee, I hope you will be prepared for my question about why don't any of these things go. I thought you were on Appropriations, John.

Mr. SHADEGG. No, Commerce.

Chairman KASICH. The gentleman from New Hampshire is recognized.

STATEMENT OF THE HON. JOHN E. SUNUNU, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. SUNUNU. Thank you very much, Mr. Chairman. It is a pleasure to be here today. I would like to do a couple of things, offer some comments of my own about the Department of Commerce but also to present testimony on behalf of Representative Ed Royce. Ed is the principal sponsor of legislation to dismantle the Department of Commerce and take the operations and streamline them, consolidate them, and in some cases give them more independence. But as a cosponsor of that legislation I fully recognize that so much of what the Department of Commerce does isn't pro business at all. Critics often point out, well, if you want to dismantle the Department of Commerce, you must not be supportive of the business community or economic growth and opportunity. It is just the opposite. The pro economic growth position is to stop the kind of distortions and incentives we have out there that work against efficient markets and that Mr. Nader in our previous testimony testified to at length.

As Members of Congress, we really have to remind one another from time to time that all things don't flow from Washington and that every conceivable human endeavor doesn't need a department here in Washington to manage its activity or guarantee its continued vitality. Oftentimes it is not just unnecessary but it can even be harmful and the Department of Commerce is an excellent example of that case in point. According to its own inspector general, the Department of Commerce has evolved into "a loose collection of more than a hundred programs delivering services to about a thousand different customer bases." The GAO says that the department has "the most complex web of divided authorities and shares its mission with at least 71 other departments, agencies, and offices." a former Secretary of Commerce, Mr. Robert Mosbacher, says that the department is "nothing more than a hall closet where you throw everything that you don't know what to do with." And we as Members of Congress need to do something about that kind of duplicative and wasteful bureaucracy.

The Department of Commerce is expected to perform a task totally at odds with the American ideal of government. It determines winners and losers in our economy by distributing subsidies, incentive packages and other selectively provided benefits and that phrase "picking winners and losers" is one that in the series of testimony we hear today will come up over and over again. Every time a company gets a grant, whether it is for $300,000 to develop better fireworks or for $2 million to develop a better mousetrap, they are getting those funds to the detriment of another firm that didn't get the money. Every time we choose one industry, whether it is steel or aluminum or textiles or electronics to receive these special grants, that is to the detriment of another industry that didn't get the money. It is anticompetitive and quite frankly it is no exaggeration to say it is un-American.

As much as $695 million was spent last year by just three of the department's many subsidy programs, the Advanced Technology

Program, the Economic Development Administration, and the Manufacturing Extension Partnership. And notwithstanding the fact that these programs have important words in their title, like technology or manufacturing or economic development, that belies the fact that they are choosing these winners and losers. Corporate X gets the money but corporate Y does not. Industry A gets the money but industry B does not and therein lies the nature of the anticompetitive practices.

Supporters of the departments assert: "Well, this is really a small percentage of the Federal Government and it really isn't much money." But it is a lot of money. It is a tremendous amount of money. More importantly, it is money that is earned by the American taxpayers, sent to Washington, and then distributed by Federal bureaucrats. Essentially we are asking hard working families to subsidize businesses which oftentimes aren't even producing products that are worthwhile, as in the cases that Mr. Shadegg mentioned, where not just millions but billions of dollars have been spent for technologies that never even came to fruition.

Finally this $695 million is siphoned away from productive investment so that bureaucrats or oftentimes politicians in Washington can dole out favors or take credit for job creation. Every dollar that is taken by Washington in taxes so that bureaucrats can determine who gets subsidized is one less dollar that that individual or family has or small business has to invest in their well-being, their own economic development, economic future that is competitiveness that is driven by free market.

Government handouts also penalize successful companies by forcing them to subsidize their competition. I spoke about this earlier. Company X is paying taxes but if they don't get a grant, they don't get the benefit and company Y does. They are essentially paying to have their competitors strengthened. A few years ago there was one company that had developed a video compression technology after years of investment and research and development. Once the technology began to take off and the company started making a profit, the Department of Commerce funded one of their competitors through the Advanced Technology Program to develop the exact same or competing technology.

Defenders of these subsidies claim that they are necessary because the programs they fund aren't adequately pursued by private investors because they are high risk. T.J. Rogers, however, who is the founder of Cypress Semiconductor, has noted that the "high risk argument that is used by the Department of Commerce is usually justification to subsidize poor investments." High definition TV is one of the clearest examples of the failure in these government targeted handouts. Japanese businesses with subsidies from the Federal Government in Japan that totaled over a billion dollars in the late 1980's sought to help and nurture and encourage the high definition television market using the current existing analogue technology. And the French government did the same. Between the two of them, they invested over $2 billion in a government sponsored program to standardize the high definition technology around a government chosen practice. In the United States we denied the $1.2 billion that was being sought in subsidies and the argument for needing the $1.2 billion was we had to do what the Japanese

were doing or we had to do what the French were doing. But the fact is that the digital technology that was ultimately developed by private markets, by American firms, made the government sponsored technology in Japan and France completely obsolete. As a result, as the high definition market—or when the high definition market—fully develops, the American standard developed by a private consortium is going to be the market winner.

That is how private markets work. That is how competition works. And that is why we need to end the distortions in the private market that these subsidies create.

Subsidies also fuel high taxes and drive high taxes. They are directly related. Higher taxes, more subsidies. And as we have the need for higher and higher subsidies, we reach out to the taxpayer to pay more and more of a share of their income. In 1993 the largest tax increase in history was passed and in 1994, the Advanced Technology Program received its highest level of funding ever. Increasing the tax burden on American families and industry so that bureaucrats can give something back to the politically powerful is not right. Mr. Nader talked about the moral implications of penalizing those that are most in need so that we can hand out Federal subsidies and it is especially worth noting that although the Advanced Technology Program has fortunately seen a reduction in funding since 1995, their funding has gone from $450 million a year to under $200 million a year in the last 4 years, I haven't seen any sharp curtailment in the American productivity. In fact, it has been just the opposite. American productivity continues to increase. Unemployment is lower.

So it is a completely false argument that this program or any other Federal plan is necessary to instill competition in private markets. The way to enhance competitiveness in productivity is to minimize government interference, lower the tax burden on investment, reduce the tax rates and lower the regulatory burden.

Tim Draper, a Silicon Valley venture capitalist, flatly states that "government subsidies, winners and losers selected by non-market forces simply distort the market." The government's job should be to create the best possible economic climate and to let business and industry do what it does best, which is to create economic opportunity. Good public policy isn't about political distribution of resources but about maintaining rules that allow the exchange and production and distribution of good ideas and good products. In short, we must allow the free market to work. It is the individuals voluntarily investing their own money that drives progress and economic growth, not government subsidies or corporate welfare.

Mr. Chairman, thank you very much for your time.

[The prepared statement of Mr. Royce follows:]

PREPARED STATEMENT OF HON. EDWARD R. ROYCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

I would like to thank the committee very much for the opportunity to testify today.

"The policy of the American government is to leave their citizens free, neither restraining nor aiding them in their pursuits."

With those few words, Thomas Jefferson articulated the premise of the Constitution and the genius of our political and economic system. Freedom and justice require government to be a neutral body that applies the law equally. The preamble of the Constitution outlines the premise of the document and states that it is to

"promote the general welfare." This is quite different than distributing selected benefits.

As Members of Congress, we have to remember that all things do not flow from Washington, nor does every conceivable human endeavor need a department in Washington to manage its activity or guarantee its continued vitality. Not only is it unnecessary, it's harmful.

The Department of Commerce is a perfect example.

According to its own Inspector General, the Department has evolved into "a loose collection of more than 100 programs delivering services to about 1,000 customer bases." The General Accounting Office says the Department has "the most complex web of divided authorities," and "shares missions with at least 71 Federal departments, agencies, and offices." Former Commerce Secretary Robert Mosbacher said the Department is "nothing more than a hall closet where you throw everything that you don't know what to do with."

The Department of Commerce is expected to perform a task totally at odds with American ideas of government—determining winners and losers in our economy through subsidies, incentive packages and other selectively given perks.

In other words, political influence is what drives rewards rather than competence in providing goods and services to customers.

The Department claims to be an advocate of America's small business community, yet it routinely competes with small businesses by providing products, administrative support, and specialized weather and mapping services that are readily available in the private sector.

$695 million was spent last year by just three of the Department's many subsidy programs; the Advanced Technology Program, the Economic Development Administration and the Manufacturing Extension Partnership. Supporters of the Department assert that this is a small percentage of the Federal budget and isn't much money.

First, it is a lot of money.

Second, it's money earned by the American taxpayer before it was taxed and given away.

And third, it's $695 million dollars siphoned away from productive investment so that Washington can dole out favors. Every dollar taken by Washington in taxes so that bureaucrats can determine who gets subsidized is one less dollar that can be invested in promising technology.

T.J. Rogers arrived in California with $700. He founded Cypress Semiconductor in 1983 which now employs over 2,000 people and is worth well over $1.5 billion. I would argue that the $700 invested by the person who owned it will prove to be more productive than the $695 million that was given away in subsides.

Government handouts also penalize successful companies by forcing them to subsidize their competition. Promising technology and companies are well funded by private investors. Poor investments and less-promising companies can't attract private investment, so they seek government subsidies instead. This forces the successful companies who have paid their dues, taken risks and incurred losses for many years to subsidize their competition with their tax burden.

A few years ago, a company had developed video-compression technology after years of investment in R&D. This new technology promises to reshape picture transmission for television, computers and the internet. Once the technology began to take off and the company started making a profit, the Department of Commerce funded one of their competitors through the Advanced Technology Program to develop the same technology.

Defenders of these subsidies claim that they're necessary because the programs that they fund aren't adequately pursued by private investors due to their high degree of risk. T.J. Rogers notes that the "high-risk" argument used by the Department of Commerce is usually justification to subsidize poor investments. He points out that the important evaluation is about the return on investment (ROI), not risk. Using this analysis shows that investments with high risk and ordinary or low return are those that are given subsidies. Investments with a good return are enthusiastically supported by private investors because they are seen as a wise use of their money. On the other hand, those that are considered poor investments are given government subsidies.

High-definition TV is one of the clearest failures of government targeted handouts. Japanese businesses, with subsidies that totaled $1 billion in the late 1980's, sought to help HDTV using existing analog technology. The French did the same.

In the United States, we denied the $1.2 billion in subsidies that some had sought to compete with these foreign rivals. American companies went on to develop an alternative technology with their own money.

In Japan, HDTV was transmitted by satellite. The picture quality was only marginally better than their standard signal and special televisions were required to receive HDTV. The Japanese people responded to this massively subsidized technology by doing nothing; they refused to purchase the televisions required to receive the signal.

Alternatively, the digital technology developed by the American companies made the Japanese analog system obsolete. As a result, the Japanese announced plans to adopt the American system. The Japanese and European taxpayers lost $2 billion because their governments handed out subsidies. We relied on the market, and again it showed that the market works.

Economic growth and technical innovations are not a result of selective government subsidies; they are the result of the genius and insight of the American people operating in the free market.

High taxes and large subsidies fuel the growth of one another. In 1993, the largest tax increase in history was enacted. In 1994, the Advanced Technology Program was funded at its highest level before or since. Increasing the tax burden on American families and industry so that bureaucrats can give some of it back to the politically powerful is not right nor is it economically beneficial (except of course to those receiving the subsidy).

The way to enhance the competitiveness and productivity of American industry is to minimize government interference in the marketplace and substantially reduce tax rates and regulatory burdens.

Tim Draper, a Silicon Valley venture capitalist flatly states that "government subsidies * * * winners and losers selected by non-market forces * * * simply distort the market. This is not just a waste; it is just plain wrong. The government's job should be to let the market do its job. The best thing bureaucrats and politicians can do is leave us alone."

Agencies like the Department of Commerce distort and harm the relationship between business and government. Much of what is called "industrial policy" is really little more than a political payoff to unfairly favored industries or businesses. This is not the proper role of the Federal Government nor is it right. People in America get up every day and work hard so they can provide for their families. It's just not right for their government to take that money which they earn in order to provide subsidies and special programs for multimillion-dollar corporations with their hands out in Washington.

Good public policy is not about the political distribution of resources, but about maintaining rules which allow exchange, production and distribution. In short, we must allow the free market to work. It is individuals voluntarily investing their own money that drives progress and economic growth, not government subsidies.

The Department of Commerce should be abolished and with it those programs which stifle innovation and fuel increased tax burdens. Today, I am introducing legislation to do just that.

Thank you for the opportunity to appear today before the Committee.

[The prepared statement of Mr. Rodgers follows:]

PREPARED STATEMENT OF T.J. RODGERS, PRESIDENT AND CEO, CYPRESS SEMICONDUCTOR CORP.

The list of unproductive—and sometimes even ludicrous—"investments in government-industry partnerships," unnecessary subsidies and outright gifts to America's corporations by our government, is long, shameful, and very well documented.

What's lacking is not another regurgitation of the evils of corporate welfare, but a Congress and president with the courage to do something about it.

Stereotypes of our political parties would lead one to believe that corporate welfare is the darling of Republicans, and under attack by Democrats. But, my direct experience in testifying on corporate welfare before the House of Representatives and Senate on five occasions over a 10-year period is that Democrats and Republicans are equally to blame for the shameful corporate giveaways. (On one occasion, I was personally attacked by Rep. Herbert Klein, D-N.J., and was so offended that I offered to fly at my expense to New Jersey during the next election to campaign on behalf of his opponent: "New Jersey voters, I am a Silicon Valley CEO who says 'no' to corporate welfare, but your congressman insists on taxing you and sending your money to Silicon Valley. ")

Most Silicon Valley chief executive officers are dead-set against corporate welfare, even if it means their companies would lose government funds. (In the same congressional session in which Rep. Klein impugned my integrity and motives, Silicon Valley Rep. Anna Eshoo, D-Calif., condescendingly told the committee that she was more in touch with the desires of Silicon Valley companies than I, and that Silicon

Valley did want government funding. Consequently, on my fifth trip to Congress, I took only one day to gather the signatures of 78 Silicon Valley CEOs on a statement declaring unequivocally that they did not want corporate welfare.)

I am the vice-chairman of the Semiconductor Industry Association, which represents the vast majority of silicon production capability in the United States. The SIA is on record opposing government subsidies for the semiconductor industry.

Corporate welfare persists because many companies outside the semiconductor business, unlike most Silicon Valley companies, make a handsome living at the taxpayers expense. For example, General Electric is a large recipient of corporate welfare, and its CEO, Jack Welch, refused to sign our petition to Congress to end corporate welfare.

Archer Daniels Midland of Iowa rakes in approximately $400 million a year in government subsidies of different types and earmarks part of that money for political activities focused on keeping its government funding. ADM is a big campaign contributor and a heavy funder of Sunday morning political television programs. One reason Congress has chosen consistently not to act on corporate welfare is that the states and the congressmen that represent them benefit from it. The situation is very similar to the scattering of military bases (and expenditures) around the country not for strategic, but for political reasons.

Much of the corporate welfare these days comes under the "technology" heading. Trendy politicians for example, have taken on the Internet as a second deity. Many, if not most, government technology giveaways are unproductive or even wasteful.

The unfortunate aspect of wasteful government technology largess is that it is currently drying up funding for the worthy cause of teaching hard science at our universities. At the same time the government is putting pork-barrel money into dubious corporate projects, we have a critical shortage of engineers and scientists so bad that it threatens high-technology growth. To alleviate this problem in Silicon Valley, Stanford University is currently trying to raise $300 million to create funded scholarships for science and engineering graduate students. Although Stanford certainly would not agree, I think their potential loss of government funding will be ultimately beneficial: In the long run, it will free the university system from government curriculum dictates.

In general, I believe that Silicon Valley has created its wealth and miracles precisely because its chief executives refuse to engage in the competition for pork-barrel funding and rarely engage in time-consuming political activities. We watch after our businesses, and value winning in the marketplace over using the force of government (subsidies, tariffs, quotas, antitrust activities, etc.) to beat our competition. The current Microsoft antitrust litigation is an unfortunate and rare counterexample.

Over the last 10 years, I have traveled at my company's expense on five occasions to testify before either the House of Representatives or the Senate on the wastefulness, destructiveness, and unfairness of the corporate welfare system. *I have not been well received*. After I prepared for hours and travelled for a day to testify, Sen. Howard Metzenbaum, D-Ohio, arbitrarily cut my testimony to three minutes. At the same hearing, the only other committee member present, Sen. Patrick Leahy, D-Vt., didn't seem to appreciate my message against Sematech, a chip industry giveaway he supported; he did not greet me, thank me for my testimony, or even look up once from his reading material during my testimony. I gave my last two presentations on corporate welfare to a nearly empty room with only one committee member in attendance. Consequently, I now believe that I am an actor in a play that waxes eloquent about cutting corporate welfare but has no last act.

If this committee is serious about eliminating corporate welfare, what to do is strikingly simple: put all pork-barrel projects in a single package and have a vote, yea or nay, to eliminate corporate welfare across the board, once and for all. It's that simple—and that hard.

EXECUTIVE SUMMARY

Two-hundred-twenty-one years ago, American colonists declared independence: to be free and to pursue their interests in free markets with limited government. Real Americans hated taxes. They listed as a cause for rebellion in the Declaration of Independence: "for taxing us without our consent." Their new constitution limited government and banned personal income taxes. The Revolution produced the American Dream, during which the common man became better off more quickly than any other time in history. For our first 200 years, from 1776 to 1976, America's per capita income grew at the rate of 458 percent per century, versus the 3 percent per century growth rate of the pre-American world.

Now, the American dream—that every generation will enjoy a higher standard of living—is threatened. Since 1976, the GDP per capita growth rate has steadily declined from 2.5 percent per year to 1.5 percent per year, and we hear people say, "America needs a raise." In 1913, the 16th Amendment legalized a Federal income tax with a levy of 1 percent of GDP. Today, the American Dream is being eroded by the ever-increasing burden of federal, state, and local taxes, which consume a whopping 35 percent of our national output. Although we are at peace and without a Cold War, our government is currently spending at a higher rate than the peak 30 percent-of-GDP rate of World War I, and nearing the record 50 percent-of-GDP rate of World War II ! There is a broad consensus that government spending must be cut.

Eliminating "corporate welfare" should be a priority in government spending reduction. The risks are minimal. Savings could reach $275 billion over 5 years. And there is a moral imperative: We should not be asking our senior citizens to tighten their belts while our government is literally subsidizing the sale of Chardonnay to the French.

The current pork-barrel system of taxing and spending (read: wealth confiscation and centrally controlled redistribution) creates a downward economic spiral. With corporate taxes so high, companies must lobby for givebacks to remain competitive. Congress is consequently put under extreme pressure to "bring home the pork" to home-state corporations, some of which are political contributors. Payouts to those corporations then pressure the government to raise taxes, which, in turn, stimulates corporations to invent new subsidies, sometimes creatively labeled "government investments" or "government-industry partnerships." "Government-industry partnership," is Washington-speak that means Americans will be compelled to pay for some silly program like the ATP proposal to re-bioengineer cotton, making the cotton fibers more like polyester. We should choose to break out of this downward economic spiral by ending corporate welfare now.

Technology subsidies to corporations are sold using technobabble to camouflage unjustifiable investments, which typically fall into four categories:

- Subsidizing the rich: Sematech. We gave $800 million over an 8-year period to 14 electronics companies that currently make more than $800 million in profit every month—and they don't even have to pay it back.
- Competing unfairly with private industry: the ATP video compression project. C-Cube Microsystems was venture funded in Silicon Valley and lost money for years before its video compression technology took off. C-Cube woke up 1 day and found a $1.2-billion-dollar rival entering its market with government funding. C-Cube's investors paid full fare.
- Spending that provides no benefit: Gallium arsenide wafers in space. Vitesse Semiconductor in Camarillo, California, makes some of the world's fastest chips using an exotic semiconductor called gallium arsenide. Vitesse sees no value whatsoever in the $500-million NASA plan to make gallium arsenide chips in space.
- Spending that hurts the intended beneficiary: European semiconductor subsidies. The European Union put a tariff on semiconductor chips to protect its fledgling chip industry. Now, the EU is removing this tariff, but not before higher chip prices decimated its computer industry. Meanwhile, European chip companies lost market share anyway.

Taxes to fund government boondoggles come from two sources: from the rich who can afford to pay excess taxes, and from working people whose lives are less well off when the government takes their money. It is immoral and un-American to take money away from people who are just making ends meet in order to subsidize corporations—or anything else. Taxing the rich to fund poorly managed government programs is simply a self-destructive decision: It does nothing more than move money and investment decisions away from proven moneymakers (read: job producers) to Washington amateurs. In both cases, Americans lose.

One common rationalization for corporate welfare is that Japan and Europe subsidize their corporations, compelling U.S. corporate subsidies in order to remain competitive. The rationalization is totally false. Objectively viewed, Japan's programs have been consistent losers. Western Europe's socialized economies are among the least healthy on the planet, second only to the 100 percent-socialist disasters in Eastern Europe. The choice to take money from citizens to pursue the government's "good ideas" is pure and simple socialism, which has been consistently self-destructive to the economies of those countries pursuing it to any degree. The damage falls on a gray scale ranging from America's first income-taxless society to the near-100 percent wealth control of the collapsed Soviet state. Our current taxes total 35 percent of GDP, in the middle of the gray scale.

The best way to shut down corporate welfare is to have a "yes" or "no" vote on a package of corporate subsidies identified for elimination by an independent com-

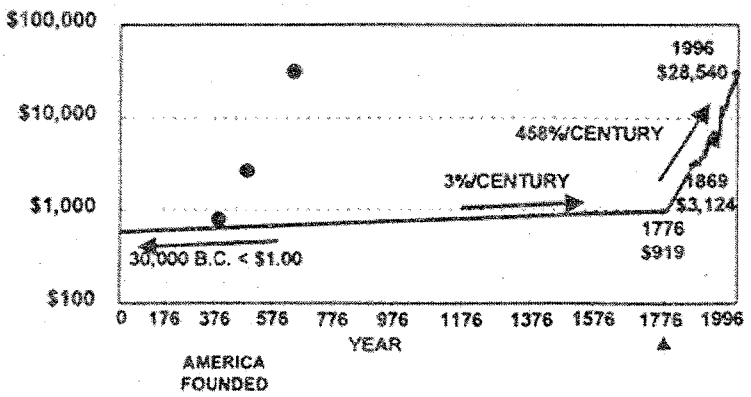
mission, as we did in the most recent military downsizing. Silicon Valley CEOs would support a fair package proposal to cut corporate subsidies, as attested by a list of names in an appendix to this report. The commission mechanism allows Congress to avoid the lose-lose proposition of voting either for more corporate welfare or against a subsidy to a home-state corporation.

CORPORATE WELFARE VS. THE AMERICAN DREAM

Our forefathers hated taxes. They viewed them as confiscation of individual wealth. They threatened rebellion over the Stamp Act of 1765—a British invention to raise money from the colonies by requiring a tax stamp on documents. They threw the tea into the harbor in 1773, rather than paying taxes on it. And they listed as a cause for rebellion in the Declaration of Independence: "for imposing taxes on us without our consent." The Constitution turned on its head the basic premise of all prior world governments. In other countries, the king, or other sovereign, owned the land, the citizens, their property, and their wealth. People were allowed to own property and to have rights only through the grace of the king, sometimes in a formal agreement such as the Magna Carta. The American Constitution created a bottom-up country by ensuring the people's right to be free: they owned themselves, their intellectual and physical property, and their money. The markets were to be free and the new government was to be given only limited, enumerated powers. Those powers not enumerated were specifically reserved for the people. The new government made it *unconstitutional to levy an income tax on individuals.* The Real Americans who founded our country wanted "the government off of our backs and out of our pockets," to use a Reagan phrase.

This first-ever, morally profound decision to organize a country "by the people, of the people, and for the people" led to the most rapid improvement in the well being of the common man in history. During our first 220 years, the gross domestic product (GDP) per capita of Americans grew from $60 per person in 1776 (equivalent to $919 in 1996 dollars) to $28,540 per person in 1996. Personal income per capita in 1996 was $24,296, or 85 percent of GDP per capita—most of GDP per capita falls through to personal income. GDP per capita grew at an unprecedented rate of 458 percent per century from 1776-1996, effectively doubling every 40 years. It took mankind 30,000 years to reach $919 per year, while America catapulted its citizens from $919 to $28,540 in just 220 years.

FOOTPRINT OF CAPITALISM
GDP PER CAPITA (1996$)



Source: U.S. Gov't, Stanford University.

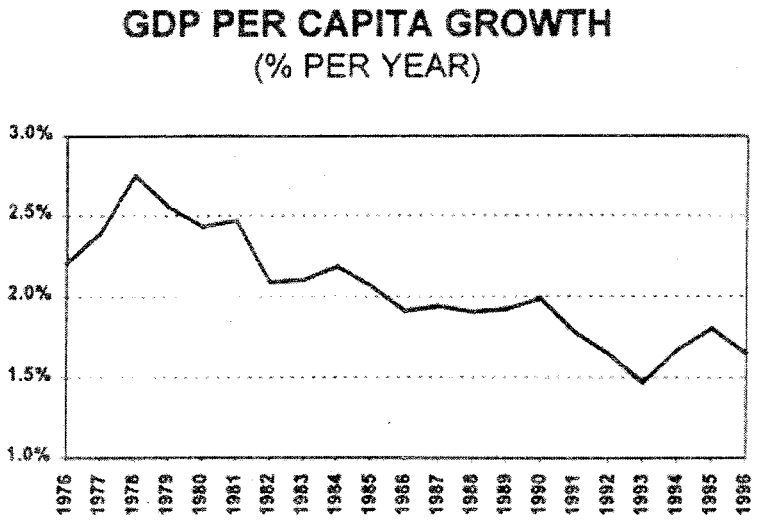
Figure 1. GDP per capita in America rose to $28,540 in 1996 of which 85 percent or $24,296 ended up as personal income per capita, based on government statistics which go back to 1869. Another source, Another Economic View of American History, by Passell and Atack, provides the estimates for U.S. GDP per capita in 1775 as $60, equivalent to $919 in 1996 dollars.

The doubling of income every 40 years gave rise to the American Dream—the expectation that every new generation in America would be better off than the prior

generation. Something special happened in America in 1776: *When the common people decided to stop serving government and to mandate government to serve, they prospered as never before.*

THE SLOWDOWN

The first Americans would have scoffed—or rebelled—if the government had proposed to tax them to "stimulate the economy" by "investing" taxpayer dollars in "government-industry partnerships." That type of language, Washington-speak, is the very un-American language of confiscated wealth, weakness, and usurped freedom. Ultimately, if we don't change—it will be the language of defeat. A closer examination of GDP per capita over the last 20 years, from 1976 to 1996, shows a slow down.



Source: U.S. Gov't; 1996$, 20-yr CAGR.

Figure 2. Graphing the 20-year compound annual growth rate of GDP per capita from 1976 to 1996 shows a decline in growth from about 2.5 percent per year to about 1.5 percent per year. The 2.5 percent growth rate of GDP per capita in 1976 corresponds to a doubling every 28 years. The slower 1.5 percent GDP per capita growth rate corresponds to a doubling every 46 years.

The American Dream, the engine of our prosperity has not stopped, but it is slowing down. We continue to hear that the working man is not getting better off and that "America needs a raise." How do we get back on track?

CUT GOVERNMENT SPENDING

One important factor slowing the American economy is the ever-increasing consumption of our national wealth by government. In 1913, the 16th Amendment lifted the constitutional ban on Federal income taxes. The first Federal income taxes were modest in both scope and magnitude.

INCOME TAXES THEN AND NOW

	1914	1994	Increase (percent per year)
Income taxes paid (billions)	$6.7	$683.4	6.0%
Income taxes as a % of GDP	1%	10%	.....
Per capita income taxes	$69	$2,622	4.7%
Individual tax filers (000's)	360	113,829	7.5%
% of population filing return	0.5%	45%	.....

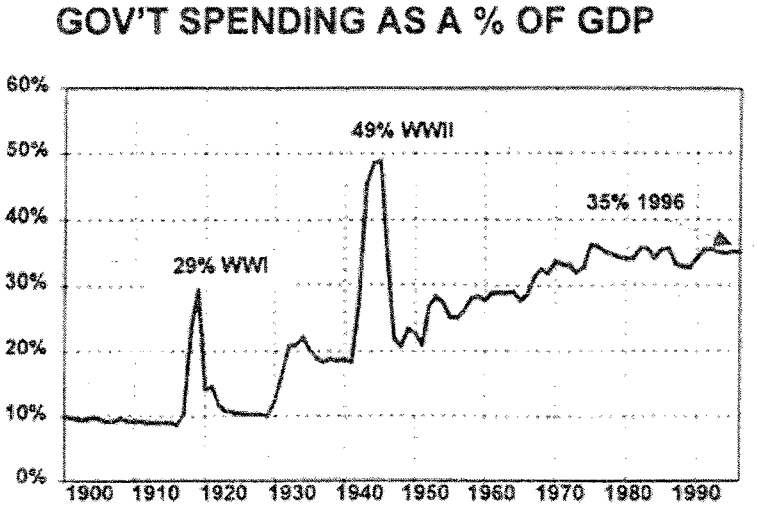
INCOME TAXES THEN AND NOW—Continued

	1914	1994	Increase (percent per year)
IRS budget (millions)	$110	$7,100	5.3%
IRS employees	4,000	110,000	4.2%
Pages of Federal tax law	14	9,400	8.5%
Pages of IRS forms	4	4,000	9.0%
Top income tax rate	7%	40%	.....
Income tax rate on median family	0%	28%	.....

Source: Cato Institute. All dollar figures in 1994 dollars.

Table 1. The first Federal income tax in 1914 was almost insignificant in terms of the total and per capita amount paid, the percentage of GDP consumed, the percentage of the population required to pay taxes, and the complexity and size of the IRS.

During the last 80 years, every aspect of the Federal income tax system has grown much more rapidly than the economy. In 1994, the personal per capita Federal income tax levy of $2,622 reached 12 percent of the $22,104 personal income of Americans. The combination of federal, state, and local taxes now supports spending which consumes a whopping 35 percent of GDP. Our government is currently consuming a higher percentage of our gross domestic product than the 29 percent spending peak of World War I!



Source: Harry Browne Reports, U.S. Gov't statistics.

Figure 3. Government spending as a percentage of gross domestic product has increased consistently since the New Deal of the 1930's. Total spending includes federal, state, and local taxes, adjusted for the Federal exemption from state and local taxes. Even though we have no "hot" or Cold War in progress, government spending is near 49 percent of GDP, the all-time record set during World War II.

Despite this rapid increase in tax collections, the government spent money even faster, piling up in addition a national debt of $4.7 trillion dollars by 1994, over $18,000 for every American. The interest payments on the national debt now amount to two-thirds of the entire budget of the Defense Department. It's time to cut back.

CUT CORPORATE WELFARE

I believe we ought to eliminate immediately most corporate subsidies, so-called "corporate welfare," which amounts to about $65 billion a year. The electronics industry would be unscathed if it lost all of its subsidies, although a few individual

companies might be hurt. (Of course, it would be precisely those CEOs who would travel to Washington to make "end of the world" speeches.)

When U.S. airlines were deregulated, removing subsidies in the form of higher fares, the industry got healthier, weak competitors were absorbed by better-managed companies, and airfare became affordable for the first time to many Americans. The airline industry is healthier and better off without subsidies.

There is also a moral imperative regarding corporate welfare: unjustifiable subsidies, such as those to promote the sales of wine and oranges in Europe, should be eliminated completely before the discussion turns to asking senior citizens to endure cuts in Social Security and Medicare.

Our current pork-barrel system of taxing and spending has created a vicious downward economic spiral that will be difficult to break. If two corporations are taxed at a rate of 37 percent (my company's current total tax rate), but one of them receives a subsidy equivalent to a 10 percent-point rebate, the subsidized company will enjoy visibly higher profitability, higher share price, and an enhanced ability to raise funds at a lower cost. Consequently, companies must compete for government subsidies whenever those subsidies make a competitive difference. Even though this is my seventh trip to Congress to oppose corporate subsidies, I would without hesitation pursue any important subsidies offered to my company, because it is my obligation to our shareholders to do my best for them, including obtaining any available low-cost funding. A company that failed to do so would be as foolish as an individual who refused to take income tax deductions because of a strong belief in a flat tax.

The spiral continues as corporations build lobbying organizations to pressure Congress to "deliver the pork" to home-state corporations, which are often political contributors. As Congress succeeds in rewarding home-district corporations with their "fair share of the government pie," the pressure falls right back onto the government to raise the revenue to pay out all of those subsidies. The spiral is completed, as it was in 1993, when tax revenues are raised to pay the bills by hiking taxes on corporations which then seek new and creative subsidies to offset their higher tax rates.

We can use happy words like "government-industry partnership," and "effective representation" to describe the process, but the economics of the downward spiral is precisely socialism; that is, the mandated movement of money from individuals and companies to central government control.

At one extreme, when all of the assets (save those of the black market) are controlled by central government planners, we have pure, Soviet-style socialism. At the other extreme, when income taxes are illegal, we have American-style capitalism, circa 1776. That is a black-and-white representation. Today, Americans live in a gray world where the government takes and controls 35 percent of the country's yearly production. Western Europe's economies are more socialist than ours, and they show it. They have slow growth rates and unemployment rates so high that they would limit any American presidency to one term. And, of course, the socialist disasters of Eastern Europe make even the ailing Western Europe economies look great.

Sometimes, it is difficult to see the obvious big picture because of incremental thinking. An increased tax of only a nickel a day per American supports a $5 billion-per-year subsidy. With easy money and companies promising breakthroughs in health care, pollution control, or electronics for "only" a few billion dollars, government often makes the wrong choice. The road to socialism is paved with nickels—trillions of them—each taken from Americans with the greatest good intent.

The synopses of ATP programs dazzle us with possibilities: "next-generation video compression," "high-definition television (HDTV) studio," "new generation laser-based welding," "less polluting, more cost efficient painting process," "super-hard coatings of boron nitride," and so forth. All of these ostensibly compelling and cost-effective requests for corporate subsidies beg the *big question:* "If you are General Motors, with annual sales of $160 billion, and $20 billion in the bank, why don't you fund this great XYZ idea yourself, and patent it?" GM is prevalent in the ATP programs, but don't overlook Ford, Chrysler, General Electric, AT&T, IBM, Black and Decker, Honeywell, 3M, U.S. Steel, duPont, RCA, Phillips, MCI, Goodyear, Amoco, Kodak, Polaroid, Xerox, Caterpillar, Westinghouse, and Time Warner—apparently, Bugs Bunny needs the taxpayers' money.

All of these great corporations with all of their great ideas and big bucks somehow need nickels from the American taxpayer to bring their ideas to market.

There are two reasons for the apparent dilemma. First, some of the projects are worthy and the big companies are simply looking for a tax rebate to get value from their extensive lobbying groups. The second reason is risk avoidance—companies want the government to help fund their long-shot projects.

I believe that the "high-risk" argument used by the Commerce Department is usually just an excuse for making poor investments. Breakthrough ideas often involve great risk; that is, a significant chance for failure. The important evaluation is really not about risk, but about return on investment (ROI). Risky ideas can be great, if they offer huge returns. It is like gambling: A bet that has only a 1-in-10 chance is very risky, but it is a big winner if its pays 100-to-1. Conversely, a bet that wins 9 times out of 10 has very low risk, but is not worth making if it pays back only even odds. In Silicon Valley, we have become rich (San Jose has the highest per capita income in the United States) by making many very risky bets, some of which turned out to be colossal winners, like the microprocessor chip. No company in Silicon Valley has ever had the size or assets of General Motors, yet most of us have taken big risks—to get even bigger returns. Analyzing ROI rather than risk shows which poor investments get foisted off on the government: the ones which have high risk and an ordinary return. The mentality of investing "free" government money is straightforward: "We would never invest our corporate money on this Edsel of a project, but if the government invests in it, great. If the Edsel succeeds, it will be a nice business; if not, we have not lost anything."

Medium return/high-risk investments are sold to the government using technobabble. Let me give you an example. Most of you are lawyers, and I have a Ph.D. in transistor physics. On Monday, I could convince you that there is a national imperative to build "gallium arsenide wafers in the near-perfect vacuum of space to achieve near-perfect tetrahedral crystals with very high electron mobility." I would convince you with a modified form of the classic "Russian missile gap" argument, which worked so well for the Defense Department during the Cold War. I would paint a picture of a potentially catastrophic technical threat, with which our foreign competitors could wipe out an entire American industry segment. You would support the project. (As a matter of fact, you did, as I will discuss later.)

Meanwhile, on Tuesday, I could come back and tell you that my original technology calculations were in error, and that a more refined version of an existing technology—indium antimonide—could save the day.

And, as a test of my skills of persuasion, I might come back on Wednesday to turn you around again based on recently published "new data." Given that I were a credible scientist from a credible corporation, you would have no choice but to agree. And don't think that your technical experts could help you deal with me—they are the ones my company didn't hire.

I would not even have to be dishonest or a cynic in order to mislead you. I spend many working hours exercising my skills as an engineer/businessman to figure out which one in 10 of the ideas presented to me are worthy investments for our shareholders. I often say "no" to well-meaning engineers in our company who are convinced that their high-risk/medium-return idea is really a medium-risk/high-return idea. Indeed, most Silicon Valley entrepreneurs don't start new companies to become techno-millionaires, but to prove their old bosses wrong, to show that their great ideas were misjudged. I founded Cypress Semiconductor Corporation 14 years ago precisely for that reason. Making difficult technology decisions professionally is what Silicon Valley is about. Whenever a dollar is transferred from San Jose to Washington, its chances of being invested in something important diminish greatly.

So far we have discussed two unjustifiable forms of corporate welfare, subsidies to the rich, tax rebates for research and development that would have been done anyway, and spending for no benefit, funding low ROI programs that will never pay off. There are two other common categories: spending that actually harms the beneficiary and unfair government competition against private industry.

SEMATECH: A SUBSIDY TO THE RICH

By 1986, the Japanese were starting to take over the semiconductor industry, once dominated by American companies. The Semiconductor Industry Association lobbied for a $500-million subsidy called Sematech, a technical consortium. They used the classic arguments to justify Sematech: "critical industry," "Japan has subsidies/we need subsidies," and "jobs will be lost." Sematech was funded, and my company inquired about joining, but the 14 Sematech charter members (12 of the 14 were billion-dollar-plus corporations) effectively excluded us and America's other 100-plus small semiconductor companies by using the mechanism of a $1-million yearly minimum membership fee. Although Sematech was sold to Congress as a consortium open to all companies willing to pay dues of 1 percent of sales, the $1 million minimum meant that a $20-million semiconductor company actually had to pay 5 percent of sales. Big companies got a break, paying maximum yearly dues of $15 million. Consequently, for a $3-billion semiconductor company, the dues amounted to 0.5 percent of sales—10 times lower than the dues paid by the small

companies. That is why so few companies joined Sematech, even though it had $500 million to spread around.

My battles with Sematech started when our engineers were denied access to an advanced piece of wafer-making equipment called a "chemical mechanical polisher" (CMP) machine manufactured by an Arizona company then named Westech. Sematech contracted Westech to develop the CMP machine and asked that the machine be held off the market and offered to Sematech members only for 1 year. The president of Westech assured me that the equipment would be on the open market and that there was no deal between his company and Sematech, but Cypress was denied access to that critical piece of wafer-making equipment, which could have differentiated between winners and losers in the next-generation technology. It was at that point I became a vocal critic of Sematech, the "government-industry partnership" that attacked all competitors, including American corporations like mine. There were rumors about other Sematech deals with equipment manufacturers, but Sematech assured me that there were no "hold-back" equipment contracts. It turns out that there really were contracts to hold back new equipment. I should say that Sematech's new president, Bill Spencer, ended that practice voluntarily.

Several years later, I agreed to become an expert witness in a trial in Austin, Texas, in which Travis County sued Sematech for failure to pay local road and school taxes. Sematech had claimed on its tax exemption form that it was a "charity." I used my position as a witness to subpoena documentation from them, requesting any contracts between Sematech and the manufacturers of wafer-making equipment, including Westech and others, as well as any contracts between Sematech and its own members. Sematech's lawyers were fast asleep, and provided me with a six-inch stack of contracts, including precisely the contract between Sematech and Westech Corporation to develop and manufacture a "chemical-mechanical polisher," which was to be sold to Sematech members only "for a period of 1 year after the point of normal product introduction." There were also other hold-back contracts. A bonus of the fishing expedition: Sematech had also granted development contracts to its own members, casting doubt on the fairness of the 50-50 "partnership" between its members and the government.

The behavior of the Sematech members was neither illegal nor unethical. Sematech asked for and received an antitrust exemption at its formation. It used the combined resources of its members and the government to create a competitive advantage, and it did a good job of keeping its secrets away from its competitors. Sematech did what rational people do when the government gives them free money and an exemption from the rules.

A few years ago, Sematech announced that it was not going to accept the last $200 million of its second $500 million grant. Based on my discussions with Sematech leaders, I know that they desired to be independent of government restrictions and not to accept government subsidies when their industry was doing better financially. Consequently, Sematech's budget was cut in half, yet its performance remained essentially unchanged. Bill Spencer changed Sematech from an expensive 800-employee manufacturing organization to a leaner research center and information clearinghouse that relies more on the manufacturing resources of its members. I believe that if Sematech had been formed as a private consortium with a smaller budget, it would have come to its current, more efficient model of operation much more quickly. But with government money, an organization can afford to be inefficient.

To be fair to Sematech, I should note that the abuses I have mentioned are more than 5 years old and that the new regime at Sematech is doing a good job. Sematech's initial membership of 14 has now dwindled to 10, but the consortium appears to provide value to those remaining companies—it simply never should have been funded by the taxpayer. Sematech falls into the "subsidies for the rich" category because its members include Intel, Motorola, Digital Equipment Corporation, IBM, AT&T, Texas Instruments, Advanced Micro Devices, Rockwell, and National Semiconductor. These companies make enough profit every month to pay back the government's 8-year, $800-million investment. At the very least, Sematech should have been funded by a loan, not a gift from the taxpayer.

Jerry Sanders, for 28 years the CEO of Silicon Valley's third biggest chip company, Advanced Micro Devices (AMD), is a board member of Sematech. He would disagree with a lot of what I've said. Also, it was his company that I left to start my company. He challenged me on that issue, too. Cypress and AMD are competitors who have disagreed in court—twice—on intellectual property issues. But, Jerry and I agree on one statement, the one he and I signed at the end of this testimony asking you to cut off corporate welfare. Other Silicon Valley CEOs have also signed up.

UNFAIR COMPETITION: THE ATP VIDEO COMPRESSION PROGRAM

Video compression is the technology that enables digital TV and small-dish satellites. Conventional television requires one satellite transponder per channel and a 10-foot dish to receive the weak analog signal. Digital TV signals are clearer, and 10 channels fit on one satellite transponder (think of the billions saved on the extra satellites that we will not need). The basic concept of video compression is that frame after frame, most TV pictures don't change much. When Dan Rather presents the evening news, he moves, but the set behind him does not, begging the question of technologists: Why not just transmit the differences from frame to frame, rather than re-transmitting the entire picture? The concept is obvious and simple, but the mathematical algorithms and special-purpose computers required to implement it are decidedly not. The leader in video compression technology is C-Cube Microsystems Inc., a quarter-billion-dollar Silicon Valley startup company, which has received an Emmy for its contribution to the television industry. C-Cube is the largest and most technologically potent company in a new industry that will reshape picture transmission not only in television, but also in computers and on the Internet.

Dr. Alex Balkanski, a brilliant mathematician and businessman, is C-Cube's CEO. I am a member of its Board of Directors. Despite C-Cube's leading technology, becoming a successful business in the video compression market has been a struggle. Changing the way pictures are transmitted in a government-regulated market is a prolonged task. The venture-funded company lost money for years while waiting for its technology to take off. Shortly after C-Cube started making a profit, we were shocked to find out that the government had funded one of our competitors. An ATP grant went to LSI Logic Corporation, one of America's top-ten semiconductor companies, to help fund their effort in video compression. Perhaps LSI Logic intended to enter the video compression market anyway, so its R&D group did the heads-up thing by getting all available funds. LSI Logic's CEO is Wilf Corrigan, a friend and competitor. Wilf Corrigan and I agree on ending corporate welfare, as his signature attests.

SPENDING FOR NO BENEFIT: GALLIUM ARSENIDE WAFERS IN SPACE

Gallium Arsenide (GaAs, pronounced "gas ") is a semiconductor five to 10 times faster than silicon. GaAs chips are used to transmit data at very high speed on the so-called "electronic data superhighway." GaAs chips are capable of transmitting and receiving signals on a single fiber-optic cable at the rate of 10 billion bits per second, fast enough to transmit 250,000 typed pages of information per second.

The Space Vacuum Epitaxy Center (SVEC) is billed as "a NASA center for the commercial development of space." It is funded to grow GaAs wafers on space shuttle flights using a process called epitaxy. NASA's Wake Shield was designed to grow GaAs crystals behind a shield sweeping through space some 30 miles away from the contaminants surrounding the space shuttle. The theory: The vacuum in space is much better than the vacuum earthbound equipment can provide, thus offering the potential to grow more perfect crystals in space. (NASA's technobabble is award winning: "molecular beam epitaxy" doing "ordered growth" in an "atom by atom manner" of "near theoretical" atomic quality in an "ultra-vacuum of 10^{-14} torr" as part of a "cost and time-efficient program" which "could be a model for future commercial space endeavors. ")

The Wake Shield became one primary objective of five NASA missions. No one at SVEC would say exactly what the cost of the space wafer experiments was, but a ball-park estimate is $200 million per flight, shared among several experiments. The management of the Wake Shield claimed that although the initial wafers would be astronomically expensive, later production of GaAs wafers in space would cost only $10,000 per wafer, a number declared to be commercially viable. Congress bought off on SVEC, and at least two missions have been flown.

Dr. Lou Tomasetta, the CEO of Vitesse Semiconductor Corporation in Camarillo, California, studied at MIT. He is an expert in transistor physics, data communications, and GaAs integrated circuit manufacturing. I enjoy "tech talk" with Lou during our monthly meetings at Vitesse, where I am also a member of the board of directors. *Neither Lou nor I can figure out why our government is making GaAs wafers in space.* Lou calls the program a "solution looking for a problem." Vitesse is one of America's Big Three GaAs companies. Given the possibility that Lou and I were missing something, I called Steve Sharp, a Silicon Valley friend of mine who moved to Oregon to run TriQuint Semiconductor, another of the Big Three. Steve said that he was buying GaAs wafers for $175 each, and that the very highest performance GaAs wafers sold for $1,000. He said that it would be very difficult to figure out how to make money on a $10,000 space wafer. His final comment was, "I tend to ignore this sort of request."

In response to criticisms I published in an industry publication, *Electronic News*, challenging the commercial value of the space wafers, the head of the SVEC project said the wafers "could be useful for technologies not yet developed" and then listed numerous commercial products including CD players and optic fibers that already are on the market, with technology derived from ordinary terrestrial wafers.

Maybe we are all missing something, but I think our government has taken several hundred million dollars from American taxpayers to subsidize an exotic technology manufactured in an exotic place for a super-high-tech industry that neither needs nor cares about the investment.

SPENDING THAT HURTS THE BENEFICIARY: EUROPEAN SEMICONDUCTOR SUBSIDIES

Recently, countries with advanced electronic capabilities agreed to remove tariff barriers on a broad range of electronic products because they realize that high prices hurt everyone in the electronics industry.

In an industry where life depends on fast improvement, consider the effect of the tariff that the European Union placed on semiconductor chips imported into Europe. Currently, semiconductors comprise about 20 percent of worldwide electronic shipments. In other words, the average personal computer contains about 20 percent of its value in semiconductors. Put another way, for every $1 in semiconductor sales, there are $5 in computer or home electronics sales.

When the European Union decided to protect its fledgling semiconductor industry by imposing a stiff 14 percent tariff on imported chips, it also raised the price that the European computer industry had to pay for its most important raw material, chips. The EU policy to protect its small semiconductor industry had a devastating impact on its much larger computer industry. Europe's largest computer company, Great Britain's ICL had to sell a 50 percent stake to Fujitsu to stay afloat. Nixdorf, a prominent German computer company, was acquired by Siemens after a financial crisis. Italy's Olivetti, Europe's biggest PC producer, still sells PCs, but stopped manufacturing, triggering big layoffs. The market share of European computer companies as a group declined. And what happened to the fledgling European semiconductor industry while it was being protected? Its market share dropped from 10.2 percent to 5.4 percent from 1988 to 1996. In this case, government "help" damaged all parties concerned.

THE HIDDEN COSTS OF TECHNOLOGY SUBSIDIES

If a tax of a nickel per day per American supports $5 billion in yearly subsidies, the whole $65 billion-per-year tab for corporate welfare can be viewed as a "mere" 65 cents per day per American. An obvious question comes to mind: "Wouldn't you be willing to pay 65 cents a day to make America's companies the most competitive in the world?" While I hope your answer to that question is "no," I would also like to point out that true cost of corporate welfare exceeds that cost by a lot. Consider the tax levy for corporate welfare as it applies to two groups, average Americans and rich Americans. That 65 cents per day is $237.25 per year, a nontrivial sum for the average American. That means less money in the pockets of families struggling to make ends meet: a bicycle not bought, a vacation not taken, or missing the monthly college fund payment. It is unconscionable and un-American that we would tax working families while we fund the dubious corporate subsidies I have reviewed.

On the other hand, it is much easier to talk about funding corporate welfare by eliminating those "tax loop holes for the rich" (who pay "only 50 percent" of their income to the government). I am an example of one of those rich people who can afford to pay more taxes. Although I came to California with only $700, I became a founder of a startup chip company which employs over 2,000 people. My personal wealth comes from the 2 percent of the shares of our company I still own, most of them held since our founding in 1983. The market value of our company is now $1.5 billion. Two percent of $1.5 billion is $30 million. I am rich. What does it matter if the government takes an extra million dollars from me in order to fund corporate welfare or other "good ideas"?

Like many Silicon Valley people who have created wealth, I consume very little of my net worth. I'm interested in transistors, companies and competition—not yachts and airplanes. Consequently, I invest almost all of the money I have earned right back in Silicon Valley. I have already described two of the companies that I not only invest in, but help to run as a board member. There are numerous other companies that I invest in because I know what they do and why it will make a difference. In aggregate, I hold shares in over 100 companies, almost all of them Silicon Valley high-technology companies whose names you would not recognize. When Congress and the President voted to raise my personal taxes in 1993, I paid the extra amount by selling some of those Silicon Valley stocks. That money then

went to Washington to be "invested" in "government-industry partnerships" related to the "electronic data superhighway" (at least as the PR described it at that time).

The point is this: When government raises taxes on wealthy individuals, it is simply taking investment dollars from those individuals and moving them to Washington. Proven moneymakers and job creators lose control over the investment of their funds and unproven Washington amateurs take over. *The real question for Americans is, "If you had to bet the creation of your job on investment from wealthy people in the private sector versus investment from the government, which would you choose?"* The answer is obvious. Although it is good stump rhetoric to fume about "tax breaks for the rich," the fact is the average American loses out every time a dollar is taxed out of the private sector. If you really want to enhance the competitiveness of American corporations, cut the capital gains tax and let me invest my own money—I'm very much better at it than government is.

There is one final hidden cost of government interference in the free market: The inefficient use of human resources is the most devastating cost of all. All CEOs know one fundamental truth: that the human knowledge and energy collected in a company is what drives profit. It's not assets, or factories, or cash, but people that separate one company from another. Consequently, in Silicon Valley, we fight titanic battles to woo employees in an area where unemployment is less than 2 percent. When Cypress was a startup company, we wooed numerous employees from Intel with the lure of a more prominent position (in a very much smaller company), and the potential wealth from stock options. Intel, now the largest semiconductor manufacturer, has counter-attacked in the Valley with a new campaign promising—in writing—a Hawaiian vacation as a sign-on bonus for working at Intel. Recently, when one of our competitors, Cirrus Logic, suffered a problem in the marketplace prompting layoffs, we hired an airplane to fly over Cirrus's headquarters carrying a banner with the message that we had jobs open and listing our Internet address.

Corporate welfare can have a devastating effect in an environment like Silicon Valley. While companies are fighting with salary, stock, and promotions to woo the best and brightest, the government sometimes uses corporate welfare to prop up sick companies. Consider this hypothetical case: When the automobile industry was moving from mechanical carburetors to electronic fuel injectors, what if the government decided to "protect jobs" in the carburetor industry by subsidizing carburetor companies? With American fuel injector companies starving for the human talent, and Japanese competitors taking market share, the government would be spending money to keep people at the failing carburetor companies in order to "save jobs." *Subsidizing losing companies traps people in dead-end jobs, prevents other companies from getting the talent they need, and gives our international competitors an advantage.*

JAPAN AND EUROPE SUBSIDIZE, SO MUST WE

One of the most common-and erroneous—rationalizations for corporate welfare is a scare tactic: Foreign governments give out corporate welfare; America must do the same to remain competitive. Perhaps Europe is not an immediate threat, but what about Japan?

Sematech was formed at the height of the Japanese attack on the American semiconductor industry. The American semiconductor industry dominated its market, from its origin in the '60's, through the '70's. As late as 1982, America held a 57 percent-32 percent chip market share advantage over Japan. But in the '80's fortunes reversed, and by 1989 Japan actually took a 50 percent-37 percent lead. Clyde Prestowitz, a big fan of government subsidies, wrote the book *Trading Places,* and testified before Congress that Japan's semiconductor subsidies, channeled through its Ministry of International Trade and Industry (MITI), were responsible for the defeat. Prestowitz declared that the American semiconductor industry was lost to the Japanese and pondered whether or not the American computer industry could survive (both assertions were wrong). In 1993, I debated Prestowitz at the Cato Institute, where he went so far as to declare that the semiconductor industry was created by defense spending. Nothing could have been further from the truth, yet Prestowitz was presented as an expert to justify subsidies to Silicon Valley, about which he knew very little.

I also debated Michael Maibach, the chief lobbyist for Intel Corporation, on public television in 1993. Maibach said that Sematech was needed to maintain the domestic supply of military chips. What if our military had to depend on Japan? It was another scare tactic used to justify corporate welfare. Even at its lowest point in 1989, America still manufactured 37 percent of the world's $49.7-billion worth of chips. The military rationalization for corporate welfare sounded OK in Washington, but it had no rational basis. I reminded Mr. Maibach that my company, Cypress

Semiconductor, shipped 20 percent of its production to the military and had chips in the F-14, F-15, F-16, and F-18, as well as many of the guidance and weapons systems aboard those airplanes. My position was vindicated a few years later when Intel announced that it was voluntarily exiting the military-chip business, despite its Sematech subsidy. Cypress still ships a wide variety of chips to the military.

Did MITI subsidies to the Japanese semiconductor industry hurt our chip companies? Were Japanese companies sharing secret data in a way that would violate American antitrust laws? The answer to both questions is "no." In 1992, I convinced Dr. Yoshio Nishi to testify to that effect at a congressional hearing. Dr. Nishi, then the head of chip development at Hewlett Packard, had been head of the VLSI program at Toshiba, one of the few MITI-sponsored programs that seemed to work. The MITI VLSI program was targeted at entering the dynamic random access memory, or DRAM market, the biggest chip market in the world. Japan successfully entered that market en masse, causing Silicon Valley's three largest companies, Intel, Advanced Micro Devices, and National Semiconductor, to abandon the DRAM market. Intel later acknowledged that it felt it could have weathered the storm, but chose to abandon DRAMs in order to put its full force behind microprocessor development. What a great decision that was! I was working in the memory group at Advanced Micro Devices at the time. We did exit the DRAM business because we could not make money in it. We felt at the time that Japan was dumping DRAM chips into the U.S., selling them below manufacturing cost. In retrospect, I believe now that Japan simply got better at manufacturing than us for a while and was able to produce the chips at extremely competitive costs. Charlie Sporck, then president of National Semiconductor, was the father of Sematech. Sporck used the DRAM failure as a rallying cry.

Dr. Nishi ran the Toshiba DRAM program, which was the most successful of the Japanese efforts. He testified that there was *very little financial aid from MITI to the Japanese semiconductor industry, and also that the Japanese semiconductor companies—intense rivals—never shared secret information,* but only general "roadmap" information that allowed the companies to gauge the effectiveness of their programs and make sure they were headed in the right direction. Three important American semiconductor companies did remain in the DRAM race: Motorola, Texas Instruments, and then-startup Micron Technology in Boise, Idaho. TI now manufactures DRAMs in plants around the world, and Micron has grown to be a $3-billion company known to be able to outmanufacture any of its Japanese rivals. The domestic military chip supply was never in danger, and MITI had very little to do with the Japanese success in the mid '80's. Superbly managed Japanese companies simply beat us—for a while.

The tables have now turned. America again leads Japan in semiconductor market share. Intel's decision to focus on the microprocessor business, combined with its excellent execution, have propelled it to become the No. 1 semiconductor company in the world. American semiconductor manufacturing capability has caught up to Japan's. Our focus on designing innovative chips has proven to be more important than Japan's focus on grinding out commodity chips at very low cost. Many of the American semiconductor companies that were very small startups at the time of Sematech's formation, my company, Altera, Xilinx, Linear Technology, Maxim, Micron Technology, LSI Logic, and VLSI Technology are now substantial semiconductor corporations with revenues from $500 million to $3 billion. These companies manufacture a dazzling variety of products. We all export to Japan. The innovativeness and resilience of the American semiconductor industry enabled it to react to the attack—and win.

Although the MITI VLSI program was successful, the fact is that MITI has also wasted huge amounts of money and has many more failures than successes. For example, MITI's high-definition television (HDTV) program spent $1 billion to define and dominate the next-generation HDTV. Some American executives immediately appealed to Congress to get their corresponding piece of corporate welfare. The realities: 1) the U.S. won the High Definition Television (HDTV) race with a superior digital design, and 2) the only digital TV deployed today is not that burdensome, FCC-approved HDTV system, but a digital enhancement of ordinary television. (Prediction: I have a 2000-line, super-enhanced TV in my house that qualifies as "HDTV," but uses a normal TV input signal. That system will be deployed commercially, and the expensive new HDTV being pushed on a reluctant industry by the FCC will stall; no wonder CBS and NBC want ATP grants to build the first HDTV station.) MITI caused Japanese taxpayers (who live in homes with half the square feet per person of Americans) to lose $1 billion on its HDTV boondoggle.

TRON was a nickname for a Japanese advanced, fifth-generation computer partially funded by MITI that threatened to wipe out the U.S. computer industry. It turned out to be a loser, and the U.S. computer industry remains dominant. MITI

support to the Japanese aircraft and biotech industries has also produced no tangible results.

MITI focuses on 13 Japanese industries. The four areas of heaviest emphasis are textiles, mining, basic metals and chemicals. Despite that, these areas ranked lowly—13th, 12th, 10th, and 9th, respectively, in growth rate among the 13 industries. In response to the theory that MITI was not trying for growth in those industries, but simply subsidizing declining industries to ease their pain, Harvard economist David Weinstein stated, "But if that is true, that makes Japanese industrial policy very like its French and American counterparts over the past four decades—politically driven, favor-based, [and] non-helpful to the nation's overall economic functioning."

As I testified before Congress in 1995, "*Corporate welfare does not work anywhere in the world. It does not work because it penalizes a country's winners with excess taxes in order to fund that country's losers with inefficiently run government programs. 'They've got subsidies; we need subsidies,' is exactly wrong. America will be much more competitive on a relative basis if we allow the nations with whom we compete to squander their taxpayers' money, while we encourage our companies to win without subsidies. It's like the Olympics: there comes the day when an athlete must walk alone into the arena of competition. The government cannot lift the weights and run the miles that are required to be a champion—only an individual can.*"

The fact is that in western Europe or Japan, the choice to take money from citizens to pursue the "good ideas" of government has been consistently self destructive to their economies. Socialism does not work. Socialism is immoral. We should abandon socialist programs like corporate welfare.

BARRIERS TO PROGRESS: THE SYSTEM AND LOBBYISTS

One of the biggest barriers to eliminating the corporate welfare drain is the pork barrel system itself: Members of Congress are put in a lose-lose situation forced to choose between voting down a significant subsidy for a home-state corporation, or voting to continue corporate welfare. Congress recently faced the same situation in the downsizing of the military. Individual senators were very reluctant to vote to close down major bases in their home state, yet everyone agreed that the Soviet collapse provided a great opportunity to reduce spending. The solution—to appoint an independent panel to collect military cuts into a single bill for a "yes" or "no" vote without amendments—turned out to be a winner. It got the job done, and even in California where we were hit very hard by military downsizing, most of us believe that we are all better off. We should follow the same procedure with corporate welfare.

Prior to traveling here, I polled a few CEO friends of mine in Silicon Valley to see if they would support a statement saying that they would support cuts to corporate welfare, even if it meant cuts in government funding to their companies. Most agreed, and their statement is attached as an appendix to this testimony. As a general rule, Silicon Valley CEOs like smaller governments and lower taxes, and are willing to forego subsidies to achieve those goals. CEOs would much rather make money with healthy companies in a healthy economy than receive welfare from the government.

I believe that the popular impression that CEOs cling strongly to their corporate welfare is completely inaccurate and stems from two sources: 1) a few CEOs who receive massive subsidies and do fight for them, and 2) industry lobbyists who are out of touch with their constituencies.

I have testified before the Senate and House against corporate welfare since 1989. In my 1995 testimony before a House Subcommittee, my opponent was a lobbyist from the American Electronics Association (AEA). His testimony started with, "We represent 10,000 corporations * * *" What struck me was that my company was a member of AEA, and that we were paying this man to argue against me! The AEA was out of touch with the Silicon Valley CEOs I know, and absolutely misrepresented my position. Furthermore, the AEA had never polled me to determine whether or not our company wanted them to lobby for maintaining Commerce Department subsidies. The AEA started as a Silicon Valley-based electronics organization. Now, like many other lobbying organizations, it has moved to Washington and been co-opted by the pork-barrel process. One unspoken assumption behind the AEA seems to be, "Our job is to bring home the pork for electronics companies." Although many of us agree with tactical positions taken by the AEA on workplace or technical issues, I know that there is no consensus support for pork-barrel politics among high-tech CEOs. When I returned to California after that meeting, I asked why we had joined the AEA. The answer was that our membership was solicited by mail,

the dues were low, and we simply signed up in order to get information. I fired the AEA; we are no longer members.

We are members of the National Association of Manufacturers (NAM). I testified earlier that I do not believe the American taxpayer should be compelled to subsidize the sale of American products overseas. The most recent cover story of the *NAM Briefing* newsletter is entitled, "NAM Report Proves Export Financing is Critical to Job Creation." NAM favors taxing people to subsidize exports. They argue that the Japanese, French, and Spanish do it, and we must also in order to be competitive. In other words, they are using every tired argument debunked in this testimony to justify their favored form of corporate welfare. I am going to fire NAM as soon as I get home.

CONCLUSION

Our government did best for its people when it stayed near its founding principles of free markets, limited government, and enlightened self interest. It did better economically and it did better morally.

Unfortunately, starting with the 16th Amendment, and then the New Deal in the 1930's, we have drifted toward socialism. The government now controls 35 percent of America's output. That makes us all poorer and less free.

The reasons for government taking one-third of what Americans produce are couched in Washington-speak and technobabble and do not stand up to scrutiny. The words rationalize the workings of a system in which taxing and spending drive us in a downward economic spiral.

We are at a cross-roads where we can choose to seize the opportunity to leave epithets like "pork barrel" and "corporate welfare" behind us and return to the high ground.

American business has always been ready to lead. By 1800, America had more corporations than all of Europe, combined. We can help revitalize the American Dream. *Stop taking money from Americans for socialist subsidies—companies do not need or want that kind of money.* Capitalists make money from customers who voluntarily trade their money for the higher value we provide them.

We declare independence from the corporate welfare state. The difference between it and free market capitalism is the difference between taking and giving, immorality and morality, poverty and wealth. Make the right choice, end corporate welfare.

DECLARATION OF INDEPENDENCE: END CORPORATE WELFARE

The high taxes that our company and its employees pay to support the current local-state-federal government tax burden of 35 percent of GDP hurts our economy more than any possible corporate benefit from government spending. If an independent commission similar to the military base-closing commission identified a fair and substantial government spending cut in the area of so-called "corporate welfare," I would support that cut, even if it meant funding cuts to my own company.

Jerry Sanders, CEO, Advanced Micro Devices
AlexBalkanski, CEO, C-Cube Microsystems
Len Perham, CEO, IDT
Jack Gifford, CEO, Maxim Integrated Products
Rodney Smith, CEO, Altera
T. J. Rodgers, CEO Cypress Semiconductor
Wilf Corrigan, CEO, LSI Logic
John Doerr, Partner, Kleiner, Perkins, Caufield & Byers
John East, CEO, Actel Corporation
Richard Previtt, President, Advanced Micro Devices
Duane J. Roth, Chairman, President, & CEO, Alliance Pharmaceutical Corporation
Chuck K. Chan, General Partner, Alpine Technology Ventures
James C. Morgan, Chairman & CEO, Applied Materials, Inc.
Gene R. Miller, President, Astec Semiconductor
Jess R. Marzak, Managing Director, BankAmerica Ventures
Robert G. Barrett, Managing Partner, Battery Ventures
Charles Crocker, Chairman, President, & CEO, BEI Electronics Inc.
Don Bell, CEO, Bell Microproducts
Bruce Dunlevie, General Partner, Benchmark Capital
Edward M. Leonard, Partner, Brobeck, Phleger & Harrison LLP
Joe Costello, President, Cadence Design Systems
Michael L. Hackworth, President & CEO, Cirrus Logic
Ted Buttner, President & CEO, Coastcom
Mark B. Hoffman, CEO, Commerce One
Ray Latham, CEO, Computer Graphics Systems

Thomas Van Overbeck, CEO, Cornerstone Imaging
Fred Bialek, Director, Cypress Semiconductor
Ken Virnig, President, Devine and Virnig, Inc.
John Mullen, President and CEO, Dynamic Network Solutions, Inc.
M. Kenneth Oshman, CEO, Echelon Corporation
Curt Wozniak, CEO, Electroglas, Inc.
Norbert Laengrich, CEO, Embedded Performance, Inc.
Paul Rogan, President, Equipe Technologies
William L. Harry, CEO, Exclusive Design Company
Jack F. Nicholson, Managing Partner, Fell & Nicholson Technology Resources
Thomas W. Ford, Managing Partner, Ford Land Company
Allen Batts, President & CEO, Hello Direct
Herman Miller, President & CEO, INET Corporation
Samuel D. Colella, General Partner, Institutional Venture Partners
Scott Cook, Chairman, Intuit
Jim Hawkins, President & CEO, Invivo Corporation
Floyd Kvamme, Partner, Kleiner, Perkins, Caulfield & Byers
Stephen R. Knott, Chairman of the Board, Knott's Berry Farm
Michael Troy, CEO, KnowledgePoint
Bob Swanson, CEO, Linear Technology
John Blokker, President & CEO, Luxcom
Del W. Masters, President, Maxstrat Corporation
Dubose Montgomery, Managing Director & General Partner, Menlo Ventures
Frank DeRemer, President, MetaWare, Inc.
Gale Aguilar, President, Mitem Corporation
Thomas W. Weisel, Chairman & CEO, Montgomery Securities
Robert White, Principal, Montgomery Securities
George Still, Partner, Norwest Venture Capital
Richard Hill, CEO, Novellus Systems
Robert Cohn, Chairman & CEO, Octel Communications
Herbert M. Dwight, President & CEO, Optical Coating Laboratory
Bryan Sheets, Principal, Paul Capital Partners
John M. Richards, Chairman & CEO, Potlatch Corporation
Jim Ashbrook, Chairman of the Board, Prism Solutions, Inc.
Dado Banatao, Chairman, S3 Incorporated
S.S. Fishman, President, Sara Scientific Co.
Al Shugart, Chairman, CEO, & President, Seagate Technology
Pierre Lamond, Partner, Sequoia Capital
James V. Diller, Chairman & CEO, Sierra Semiconductor
John A. Sobrato, General Partner, Sobrato Development Companies
Garrett A. Garrettson, President & CEO, Spectran
Robert M. Stafford, President, Stafford Capital Management
Tom Stemberg, Chairman & CEO, Staples
Scott McNealy, CEO, Sun Microsystems
Robert L. Tillman, President & CEO, Sunshine Medical Instruments, Inc.
Larry Israel, CEO, Telesensory Corporation
Burton J. McMurtry, Venture Capitalist
Lou Tomasetta, President & CEO, Vitesse Semiconductor
Michael McCarthy, President and CEO, Web Publishing, Inc.
Ronald Swenson, Partner, Western Technology Investment
J. Emmett Hammond, President, Wireless Data Corporation
Bernard Vonderschmitt, Chairman, Xilinx, Inc.
William H. Welling, CEO, Xiox Corporation
Phillips Smith, CEO, Zycad Corporation

THE POLITICAL GREENING OF SILICON VALLEY

Silicon Valley went political for the first time to stop Proposition 211, the California ballot initiative that would have subjected Silicon Valley companies to a blizzard of shareholder lawsuits. Of course, real shareholders almost never bring so-called shareholder lawsuits, these suits are brought by securities-litigation specialists such as Bill Lerach, the market-share leader in suing high tech companies. Lerach was the author of Proposition 211.

During my 28 years in Silicon Valley, I saw Intel's chairman emeritus, Gordon Moore, only about once per year. Our conversations were almost exclusively about the chip business. During one extraordinary 3-month period in 1995, however, I met four times not only with Gordon Moore, but also with a large group of Silicon Valley CEOs, to talk politics: how to defeat Proposition 211. That Silicon Valley leaders

would convene for and contribute $30 million to a political activity was unprecedented. We did it because Proposition 211 threatened the core of how we do business. For example, one of the provisions of Proposition 211 made it illegal for companies to indemnify their board of directors against lawsuits. How could any Silicon Valley company assemble a board of directors if the directors' personal property were liable to the vagaries of class action lawsuits?

We defeated Proposition 211 by a 3-1 margin, but our activism on Proposition 211 triggered the still-ongoing series of media reports on the "political greening of Silicon Valley." The press badly wants us in the action: Silicon Valley should stop sitting on the sidelines, stop being isolationist technonerds, recognize the value of government-industry partnerships, become part of the process and help lead the country.

I believe we could make no bigger mistake. Silicon Valley is what it is because of the core values that drive our success. The politics-as-usual we ignore is antithetical to—and highly destructive of—those core values. I will build the framework for that conclusion—starting with the basic American freedoms that allow for the very existence of Silicon Valley—as follows:

- Freedom and free markets (that is, capitalism) are built into the Constitution and the Bill of Rights.
- America is unique in that it was the first truly free nation.
- Freedom creates prosperity.
- Silicon Valley is an island of freedom and free markets, more in line with 1776 America and its government than 1998 America and its government.
- Many CEOs practice not free-market capitalism but collectivism in one of its forms.
- Collectivism is the irrevocable enemy of capitalism.
- The collectivism espoused by big government undermines capitalism and therefore the fundamental wealth-producing process of Silicon Valley.
- Rapport with Washington offers only downside to Silicon Valley.
- For these reasons, Technet, the Silicon Valley lobbying organization, is a bad idea.

FREEDOM IN AMERICA

The basic premise of freedom is: I own myself. Therefore, I do what I want and go where I want—subject, of course, to the responsibilities to observe the freedom of others.

Our freedoms beyond self-ownership are enumerated in the Bill of Rights, constitutional amendments 1-10. (Here, I would like to stop to thank the Cato Foundation for the booklet given to each of you, a pocket-sized reprint of the Declaration of Independence, the Constitution, and the Bill of Rights.)

The first amendment calls for freedom of religion, speech, press, and assembly. The *form* of these rights is particularly important: "Congress shall make no law prohibiting the freedom of * * *." I call this form a "protective right," because it tells us what the government cannot do to us, not what the government promises to do for us, like the so-called right to a "decent" wage, what I refer to as an "entitlement right," one which is not part of our basic freedoms—and shouldn't be, as I'll explain later.

The first 10 amendments take the form of protective rights: to protect us from government because our founders did not trust unfettered democracy. John Adams, our first vice president and second president, said:

"We may appeal to every page of history we have hitherto turned over, for proofs irrefragable, that the people, when they have been unchecked, have been as unjust, tyrannical, brutal, barbarous, and cruel, as any king or senate possessed of uncontrollable power. The majority has eternally, and without one exception, usurped over the rights of the minority."

John Adams would say, "I told you so," if he knew that the TV-sitcom son of Archie Bunker, "meathead" Rob Reiner, had just succeeded in passing California Proposition 10, an initiative to tax smokers 50 cents a pack because *Reiner* doesn't like cigarette companies and smoking. The tax is earmarked to "help children," via a new, ill-defined, statewide bureaucracy. Even if we dislike smoking and believe in helping children, we should never support any government action that confiscates the property of a minority group at the whim of, in the case of Proposition 10, a 50.1 percent majority. High-tech leaders Microsoft and Intel are currently learning that yesterday's Gallup-Poll heroes can become today's pariahs, just as subject to unfair government action as the tobacco companies.

The Constitution also allows individuals to own their own thoughts—that is, their intellectual property—in the form of our patent system. And the Fourth Amendment

of the Constitution also defines the right to own real property without the fear of unwarranted search or confiscation: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

With the right to own real and intellectual property comes the right to freely trade property with others. That's the basic mechanism of capitalism: free trade between consenting parties.

I think most Americans embrace these basic freedoms. Our government talks that talk, but as we know, they certainly do not walk that walk.

Consider the so-called "living wage" measure just adopted by the city of San Jose. One advocate of the new $10.75-per-hour mandated wage said that "we should find it in our hearts" to pass the measure. Although he did find compassion in his heart, unfortunately, he had to reach into someone else's pocket to pay for his compassion. That's what is wrong with the San Jose and all other minimum wage laws: They strip away the basic right of consenting parties to freely trade their goods and services in an uncoerced marketplace. Minimum-wage laws are not about compassion, they are about politics—politicians currying favor with one block of voters by turning the government into a collective bargaining agency with powers well beyond those of any union.

Often, capitalists defend free markets with the wrong reasons—on economic rather than moral terms. The president of the San Jose Chamber of Commerce argued against the new "living wage" law because it will cause economic harm. That may be true, but most in harm's way will be the poor, many of whom will face the prospect of being fired from their jobs under the new law because they cannot provide the value to warrant their new non-market salary. But economic harm is not why minimum-wage laws are wrong. Minimum wage laws are wrong because they immorally strip away our basic freedom to trade our services and property freely. It is also true that lost freedom causes economic harm, as I will demonstrate later.

Minimum-wage laws are one example of entitlement rights. Other examples include a government guarantee to a given wage, health care, or a job. Although we all want a world with good wages, universal health care, and low unemployment, we must realize that these goals are not "rights" at all in the sense of our Constitutional rights; *they are nothing more than a government demand that Americans surrender their property and wages to achieve government-mandated objectives.* If we believe in the basic protective rights outlined in the Constitution, we cannot consistently believe in any entitlement "right" that negates those basic rights.

AMERICA, THE FIRST FREE NATION

America was founded on principles unique and profoundly different from those of its predecessors. Our Constitution defined a government that was for the first time architected from the bottom-up (the people owned a government that was created to serve them) rather than from the top-down (the king-dictator, tribe leader, politburo—owns you and your property). One might be tempted to say that the European monarchies were on the path of providing rights like ours, but, even under the assumption of similar rights, there was a profound philosophical difference. For example, British rights were granted in documents like the Magna Carta, which granted some rights from an otherwise top-down government. The American mind-set was, "I am the king, I own you and your property—even your wife on the first night—but, being a good king, I will grant you the following rights." In our bottom-up government, the first 10 amendments are protective rights, covering most daily activities—speaking, praying, owning things, defending yourself—over which government control was explicitly forbidden. The mind-set was totally different, "We are the people; we own the government—and it will not be allowed to interfere with us in the following ways."

Furthermore, the Bill of Rights finishes with the 10th Amendment, which imposes a limit on government: "The powers not delegated to the United States by the Constitution * * * are reserved to the states respectively, or to the people." In other words, the government was specifically forbidden from meddling in an area where no powers were expressly granted.

I wonder what the authors of the Bill of Rights would say about the Federal Government's current micromanagement of our daily lives, like the case of the meatpacking plant in Cincinnati, Ohio, that was penalized in 1 week by the Food and Drug Administration for unsanitary plant conditions, and by OSHA the next for unsafe working conditions caused by frequently washed wet floors?

In addition to the personal and economic freedoms outlined in the Bill of Rights, our Constitution did not allow a Federal tax to be imposed on individuals; no revenue stream was to be created to feed a potential monster. Americans paid no Fed-

eral taxes until 1913, when we mistakenly passed the 16th Amendment to allow the Federal income tax. The passing of that amendment set the tone of duplicity common in tax legislation today. The 16th Amendment was passed with a promise that there would be a top-bracket tax of only 7 percent levied only on the richest 1 percent of Americans. The promise lasted 3 years. By 1918, the average American was taxed, and the top-bracket rate reached 77 percent. Since no one would ever really pay a 77 percent income tax, we instituted some very destructive systems: complex tax laws to aid in tax dodging, Congressional micromanagement of the economy using tax breaks, and the practice of giving political contributions in return for tax breaks and subsidies.

The corporation was an important part of our economic freedom, even in colonial times. Corporations provide the ability for people to work together with joint liability, rather than individual liability. That means if the company we work for becomes liable to another company or individual, our personal property cannot be confiscated, only that of our company. One reason Proposition 211 was so abhorrent to Silicon Valley is that it made it illegal for the directors of a company to have the same individual liability protection enjoyed by all other company employees. Without corporations, individuals would not organize to perform tasks greater than individuals can achieve alone. America did not invent corporations, but we embraced them. By 1800, there were more corporations in America than in all of the great countries of Europe combined.

Freedom Creates Prosperity

Ayn Rand once asked the rhetorical question, "Where did the extra come from?" She was referring to the wealth *created* by capitalism. She noted that after capitalism's invention, wealth creation reached the rate of 300 percent per century, while prior to capitalism, the world had achieved a rate of only 3 percent per century. I decided to quantify more carefully Rand's back-of-the-envelope look at economic prosperity. My most accurate estimate for wealth creation since 1776 is 458 percent per century.

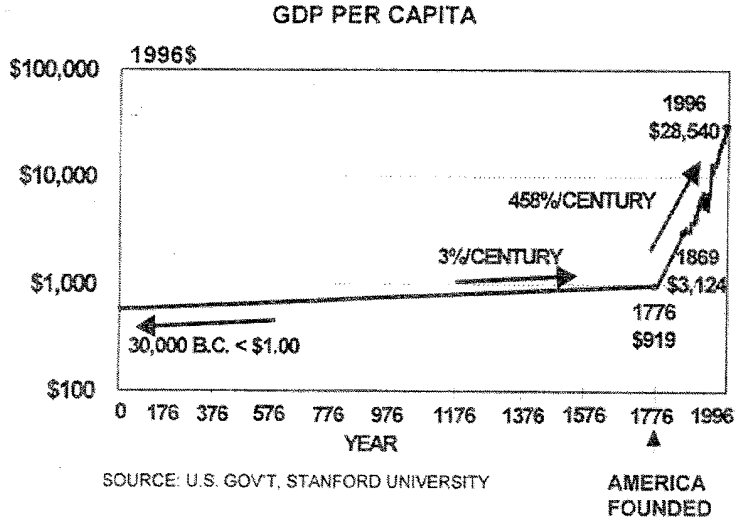


Figure 1. This graph of Gross Domestic Product (GDP) per capita vs. year shows that Americans in 1776 produced $919 per person per year in 1996 dollars, according to a 1994 Stanford economic study done by Passell and Atack. By 1869, the Department of Commerce reported its first results at $3,124 per person per year. Since 1869, yearly data shows an increase to $28,540 in 1996. The growth rate of GDP per capita from 1776 to 1996—which is nearly identical to the growth rate of the average wage—is thus best estimated at 458 percent per century.

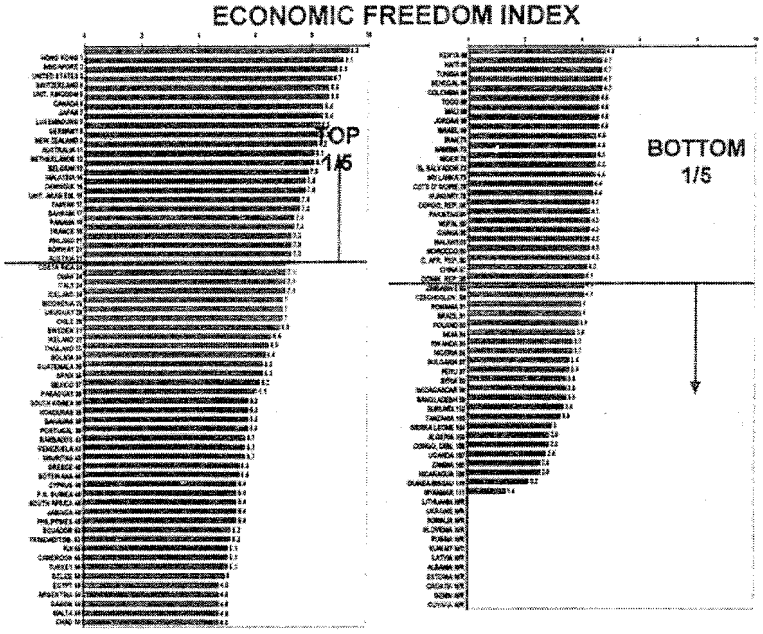
Rand was right—something big did happen around 1776—and the common man became much more prosperous, much faster, than ever before in history.

A more contemporary look at the relationship between freedom and prosperity is produced on a yearly basis by Canada's Fraser Institute, whose Economic Freedom Index ranks countries according to complex measures including:

- The size of government as a percent of the economy.
- Government investment relative to the private sector.
- The use of price controls.
- The top marginal tax rate.
- The right of citizens to own foreign currency.
- The right of citizens to hold foreign bank accounts.
- The protection of property rights.
- The freedom to trade with foreigners.
- Taxes on international trade.
- Private vs. public bank ownership.
- The use of interest rate controls.
- The use of conscripts to obtain military personnel.

It is interesting to note that the military draft is considered in an economic context, separate from its impact on human rights. However, if you think back to the basic rights of owning yourself and of trading your services to others at a mutually agreed-upon price, there is a big difference between forcing people to join the military under the threat of jail and obtaining a voluntary agreement with people to serve in the military for compensation. I doubt that the Vietnam War would have happened if Americans had to pay for it at free-market prices.

The factors in the Fraser index are weighted and condensed into a single scale that ranges from zero to 10, the best score. All of the world's prosperous, large economies—the U.S., the U.K., Canada, Japan, Germany, and France—have freedom indices in the top 20 percent of the index. Conversely, Fraser's bottom-20 percent is populated exclusively by economic train wrecks.



SOURCE: FRASER INSTITUTE

Figure 2. A list of the world's countries, ranked by economic freedom on a scale of 1-10. The United States ranks No. 3 in economic freedom.

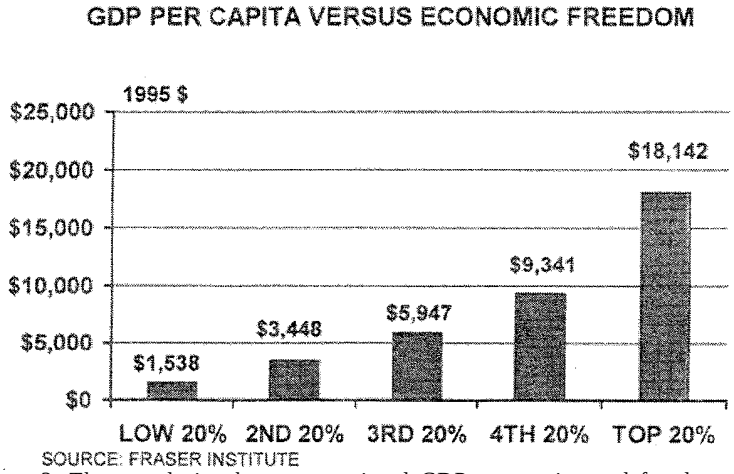


Figure 3. The correlation between national GDP per capita and freedom shows that freer countries are richer countries.

Comparing the five quintiles of the Fraser Economic Freedom Index shows that countries in the top 20 percent of the index have a per capita income which is more than 10 times that of countries in the bottom 20 percent.

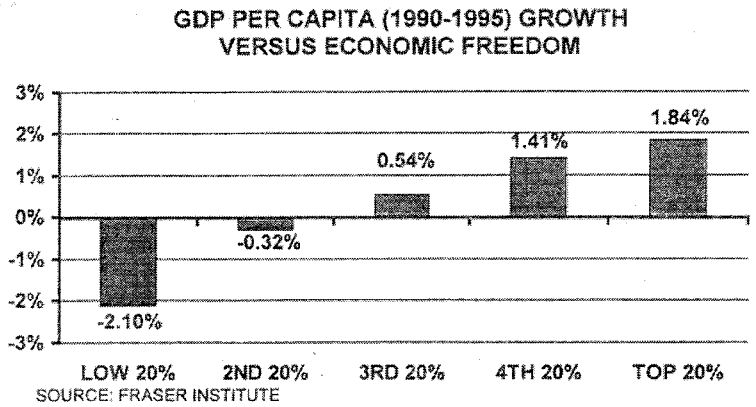


Figure 4. The growth rate of real GDP per capita increases as economic freedom increases.

In addition to earning a higher yearly income, people in freer countries also see their income growing at a rate faster than that of people in countries with less freedom. In the least-free countries, per capita income is actually shrinking. The old adage that the "rich get richer, and the poor get poorer" is a fact. The rich get richer not because of some unfair advantage, but because they demand freedom. Again, we should remember our priorities: we're free because that is morally right—and we're prosperous because we're free.

SILICON VALLEY, BASIC AMERICAN VALUES AT WORK

The free market in Silicon Valley is not well ordered or even predictable. People are free to quit, to start up their own company, and they often do. More often than not, start-ups end in failure: three out of four don't make it. That tolerance for failure is a very important factor that differentiates the Silicon Valley economy. When

a start-up company fails in Silicon Valley, no one wails about the unfairness of foreign competition or the need for government intervention. We simply say something like, "Did you hear that Schlock Tech cratered?" And then we get on with making sure we don't suffer the same fate. Failure is OK in Silicon Valley, because we truly believe that people are the key asset of any company, and that the newly defeated will be quickly re-employed to try again. When one of our competitors had a large layoff a few months ago, our HR department hired an airplane to fly over its headquarters, hauling a banner with our name and web site address. While the "right to fail" is a key attribute in a truly capitalistic economy, it is alien to the security-seeking "old economy." When Chrysler got in trouble, it successfully pleaded for a government bailout "to save jobs." When Intel got in such deep trouble in 1985-1986 that it laid off one-third of its work force, it never asked for a bailout, and there was no surge in unemployment. The rest of Silicon Valley simply hired the windfall of exceptional talent.

When a Silicon Valley company can no longer afford to support its employees and shareholders, it is natural and right that the process Schumpeter described as "creative destruction" be allowed to move employees from low productivity jobs in a troubled company to higher productivity jobs elsewhere. It is not only wrong to coerce people into supporting a failing company, it's also economically disastrous for our government to save old, low-productivity jobs just because that company has developed a skillful lobbying department.

The basic right of individuals to own their ideas takes on particular importance in Silicon Valley. Most ventures are funded specifically because of their intellectual property. Cypress's original intellectual property consisted of a way to make transistors faster than those of our competitors and a business plan to bring that technical capability to the market. Our 15-page business plan—and the six founders to pull it off—sold to a consortium of six venture firms for $3.5 million. Today Cypress's market capitalization has grown to approximately $1 billion—that's a typical, even modest, story of wealth creation in Silicon Valley.

Silicon Valley is an economic meritocracy where people know that salary is not the path to prosperity. They know that "owning a piece of the rock"—and then making the rock worth a lot of money—is the only way to prosper. Here, the greatest wealth goes to those who create the greatest value. Intel became rich because it sells 80 million computer chips a year for about $200 each, a great value because each of those computer chips has about 50,000 times the power of a 1950's-vintage mainframe computer that cost $5 million.

Silicon Valley knows that the old adage "money makes money" is false. We know that people make money, and money makes money only when it's invested in the right people. That's why Silicon Valley considers people to be an asset, not a liability, the way government views them. That's why when we see an immigrant we do not see a potential welfare case but an intellect with the potential to help one of our companies. The chairman of our board of directors and four of Cypress's ten executive vice presidents are immigrants.

Silicon Valley is a successful and dynamic example of the basic American values outlined earlier at work: private property, intellectual property ownership, and free markets. Just as Americans are better off than people in other countries because our economy is freer, so the people of Silicon Valley are better off than the average American, because the Silicon Valley economy is even more free.

I view Silicon Valley as a place of "free minds and free markets," to use the trademark phrase of the Reason Foundation. Capitalism is not just an economic system here, it is a way of life. And, to me, it is a natural way of life. I always remember a bumper sticker that read, "Capitalism: What people do when they're left alone."

Capitalism has made the whole Valley rich, not just its CEOs. The 4.2 million factory workers employed by the high-tech industry earn almost twice the yearly wage of workers in other industries. And—as I will illustrate in a poignant example—our markets have enabled us to become strategically important to America, as we have invented or commercialized revolutionary innovations such as the silicon chip, the computer, genetic engineering, and the Internet.

I don't want more government in Silicon Valley. Government can do only two things here: take our money, limiting our economic resources, or pass laws, limiting our other freedoms.

The question then arises: Why does Silicon Valley appear to be "going political"? Why do we see some of our CEOs actively embrace Washington? The counterintuitive answer is that many businessmen are not capitalists, as I have defined that term. Indeed, in many corporations, there are better capitalists in the stockroom than in the boardroom.

MANY CEOs ARE NOT CAPITALISTS

I used to naively assume that a CEO, by the nature of his or her job, was a free-market capitalist. That view became problematical when I noted that some CEOs did very non-capitalistic things, like lobbying for corporate welfare. I wondered, was there some sort of "new capitalism," embodying concepts like "government-industry partnerships," that transcended my traditionalist version? The Cato essay, "The Paradox of the Statist Businessman," by Theodore J. Forstmann, addresses this apparent contradiction.

Forstmann points out that just as the basic values of most ministers are undermined by the TV evangelist, Jimmy Swaggart, so are the values of capitalist CEOs undermined by what Forstmann calls the statist CEO, those CEOs who compete using the power of the state.

The prototype capitalist CEO lives right here in Silicon Valley: He or she is an entrepreneur with a position earned on merit, often the head of a start-up company that has created wealth not only for the CEO but also broadly for employees and shareholders.

Let's contrast a hypothetical Silicon Valley capitalist businesswoman with a hypothetical statist businessman. To visualize the statist businessman, think about the behemoth company you dislike most—a company that is arrogant, treats its customers poorly, has lost market share, is always "downsizing," and fights a protracted battle with hostile, unionized employees. Its CEO is almost undoubtedly a statist businessman.

While the entrepreneur earned or created her position, the statist businessman achieved his position by climbing the corporate ladder, much the same way a politician climbs the political ladder—by currying favor with the right people; by not stepping on the wrong toes; and by building a power base. And like the politician who has clawed his way to the top, holding power is the statist businessman's top priority, even above the interests of his company. Meanwhile, the entrepreneurial businesswoman has no time for corporate power struggles, she has to concentrate on the tumultuous world of Silicon Valley, where a new start-up or well-staffed big company might take a devastating toll on the competition in only a few quarters.

The statist businessman draws a huge salary and bonus, as negotiated by his agents. His perks—corporate jets, limos, lavish expense-account dinners—are the reward for climbing the ladder. Those of you who have traveled here for this meeting will find out that there are no great, super-expensive restaurants in Silicon Valley and that night life here is characterized by freeways jammed at 7 p.m., when we leave work. The corporate jet is a Silicon Valley joke. Gil Amelio's short tenures as CEO of National Semiconductor and then Apple Computer were punctuated by derisive reports on how he insisted that each company pay for his private airplane. Once, as I flew in a middle seat in coach class into Beaufort, South Carolina, to speak to a Fortune 500 conference, I counted 52 corporate jets that flew in the CEO for golf—and a little conferencing.

The entrepreneurial CEO keeps her salary and bonus very modest by Fortune 500 standards. That is not to say Silicon Valley entrepreneurs cannot get very rich: Intel's founders have earned hundreds of millions of dollars in capital gains. It is easy to make a hundred million dollars in Silicon Valley—all you have to do is own 1 percent of your company and then spend 20 years making that company worth $100 billion. Intel's current $160-billion market capitalization was *created from nothing*. Intel's employees and shareholders benefited with over $99 of capital gain for every $1 collected by its founders.

The statist businessman wins using the state; that is, government. His large and effective lobbying organization is skilled at reducing taxes on his company, increasing the taxes on competing import products, creating quotas to block the imports he cannot tax away, and lobbying for pork—those "government-industry partnerships" that allow him to continue on in businesses that would not otherwise be economically justified. Archer Daniels Midland Corporation's chairman, Dwayne Andreas, is one of the most effective statist CEOs, dubbed the "prince of political influence" by The Wall Street Journal. About half of ADM's agricultural products are subsidized or protected by the Federal Government. The company rakes in $400 million per year from the government, gives lavishly to both major parties, and advertises heavily on Sunday morning TV political talk shows. ADM gets my vote for the most unreasonable subsidy: a tax break on each gallon of corn-ethanol production that exceeds the production cost of the gallon of gasoline it replaces.

While the statist CEO has a well-staffed Washington office and government action agenda, most Silicon Valley companies do not have any presence in Washington at all. Even large Silicon Valley companies, such as Intel, have only a modest presence in Washington. And even then, Intel's six full-time lobbyists do only defensive

work—to protect the company from inappropriate, top-down government mandates—rather than lobbying for corporate welfare.

The differences between the capitalist entrepreneur and the statist businessman could not be greater: It is the difference between free market capitalism and the *collectivism* inherent when government distorts free market action. The statist businessman is no friend of Silicon Valley. He could not be more different from Silicon Valley leaders, despite the fact that his title may be "CEO."

COLLECTIVISM, ENEMY OF CAPITALISM

There are many forms of collectivism, some are mislabeled as "capitalism." The former Soviet Union is a straightforward example: collectivism took the form of socialism, an unmitigated economic disaster. However, consider the Japanese keiretsus and Korean chaebols. They're labeled "crony capitalism" by the press but are really nothing more than mutations of collectivism.

The freedom of Americans to invest their money in a diverse, international money market contributes to our high score on the Fraser Economic Freedom Index. The Japanese money market is not free. Japanese people cannot choose among 500 different mutual funds. Free-market competition for Japanese investment by American financial institutions is banned by the cronies that run crony capitalism.

With limited investment choices, the Japanese put their money into post office accounts, which currently pay 0.25 percent interest—yes, you heard me correctly. Of course, any American financial institution would be overjoyed to give the Japanese people 2.5 percent interest, 10 times the going rate, but that's not allowed. Having used the government to block free-market choice for savings, the keiretsus then exploit their "government-industry partnerships" to use the cheap money as they want, usually as below-market loans to subsidize manufacturing companies.

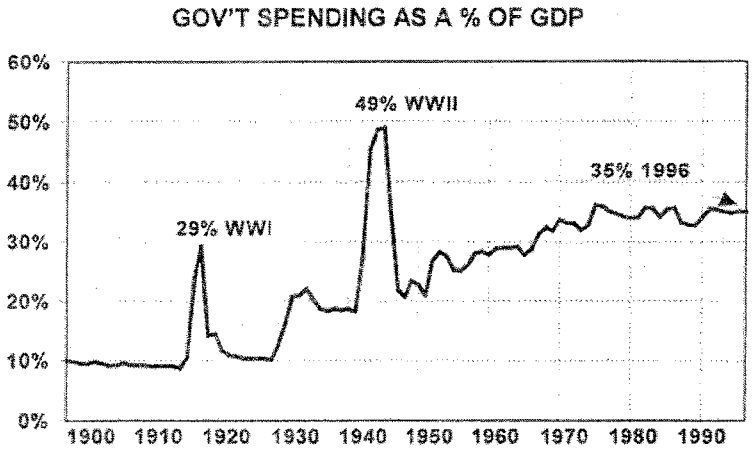
Although the men who run the keiretsus are much more competent than those who ran the Soviet Politburo, no elite power structure can make decisions as well as the free marketplace. The keiretsus looked unstoppable in the '80's, when they effectively attacked our semiconductor industry. But the strategy of the Japanese keiretsus and Korean chaebols—to use nearly free money to gain market share without regard to profitability—has no more economic integrity than a Ponzi scheme, it just takes longer to collapse.

Meanwhile in Silicon Valley, American investors, represented by their tough and aggressive mutual fund managers, demanded fair returns on their money, forcing our companies into a pay-as-you-go mode. With 6 percent money, our industry had a tough time competing against Japanese competitors with 0.25 percent money, but the free market capitalism of Silicon Valley prevailed over the collectivism of Japan. After a brief period of market-share leadership, the Japanese semiconductor industry has collapsed far into second place with a 32.5 percent market share, compared with America's 49.2 percent, according to semiconductor research organization Dataquest.

Clyde Prestowicz declared the demise of the American semiconductor industry in his naive book, "Trading Places," a work that became the mantra for every collectivist in Washington who wanted more control of Silicon Valley. The Japanese semiconductor scare produced Silicon Valley's only noncapitalist aberration, the successful lobbying effort to gain $1 billion in corporate welfare to support Sematech, a semiconductor industry consortium. Fortunately, our leaders woke up quickly and dumped the subsidy with hundreds of millions of dollars still available. The current charter of our Semiconductor Industry Association now calls for "free and open markets," and the SIA board of directors is on record saying that it will not lobby for government subsidies. What Washington lobbying group do you know that stands for free and open markets with no subsidies?

In 1997, I testified before Congress to support the elimination of the Department of Commerce, a primary delivery vehicle for corporate pork. By circulating a statement denouncing corporate welfare only 48 hours before my departure, I was able to get signatures of 79 Silicon Valley CEOs, who agreed to swear off corporate pork, even if it meant that their companies lost government funding. Do you think I could convince Archer Daniels Midland's chairman to sign that document? I even tested one of my icons, Jack Welsh, the CEO of General Electric, a big recipient of corporate welfare. Jack said "no" via a letter written in bafflegab by one of his "government relations" people.

Americans may live in the most economically free major world economy, but capitalism vs. collectivism is not a black-white dichotomy; it has a gray scale. Currently, our state, local, and Federal Governments control about 40 percent of our gross domestic product—that is 40 percent of the combined output of every American.



SOURCE: HARRY BROWNE REPORTS, U.S. GOV'T STATISTICS

Figure 5. Prior to the enactment of the Federal income tax in 1916, only 10 percent of America's then-small GDP was required to run the government. During periods of war, the amount spiked up, but later returned close to prior levels. There are two noticeable periods of American economic socialization: in the 1930's, when President Roosevelt took a second 10 percent of America's output for the Great Depression, and in the post-World War II period, when America and other democracies began a process of economic socialization. President Reagan mitigated that trend in the 80's, but he did not reverse it.

Although you may think that 40 percent of GDP is an excessive cost for government, most of the socialized democracies of Europe spend more than 40 percent—and have the stagnant economies to show for it.

One easy way to pinpoint the absurdity of the American tax bite is to question the 39.6 percent tax rates levied on Silicon Valley CEO's and the 36 percent rate levied on their companies. The standard argument for higher taxes is that they fund a greater good, like curing cancer. Of course, it is not at all clear that cancer could not be cured more quickly and cheaply with private funds, or that the "greater good" espoused is always as noble as fighting cancer. My favorite line item in this year's omnibus budget—pork-barrel legislation of cosmic proportion—is a $500,000 line item for horse-manure management. I am not joking with you, it is really in there. And while you are laughing, I'll add that there is another $500,000 line item for pig-manure management. Two Congressmen, two states, two campaign promises kept—it is the American government way.

Let me attack the tax-for-greater-good argument as it applies to us in Silicon Valley. Consider the effect when the Clinton-Gore administration raised the tax on Silicon Valley companies from 35 percent to 36 percent. Vice-President Gore basks in the technology image that a few Silicon Valley leaders have given him. But that extra 1 percent tax Al Gore levied on Silicon Valley takes away billions of dollars from Silicon Valley—over $400 million a year from Intel alone. Consider that corporate tax on Intel a choice: either Intel invests its own profits, or surrenders those profits as taxes to be invested by the government. Intel's $400 million will be invested; raising or lowering taxes just decides who invests it. From that perspective, we have the preposterous claim that high-tech VP Al Gore can do better by investing the $400 million than could Intel's CEO, Craig Barrett. I state the obvious: Every American would be better off if Craig Barrett invested the $400 million.

An equally absurd situation arises when the government taxes Silicon Valley CEOs at a rate of 39.6 percent. By raising the tax on top-bracket individuals from 36 percent to 39.6 percent, the Clinton-Gore administration will have extracted in the neighborhood of $1 million in extra taxes from the average Silicon Valley CEO by the time their administration ends in 2000. In my case, I have paid those extra taxes by selling off some of my investments, most of which are made in electronics, biotech, and Internet-related companies right here in the Valley. Many of those companies are funded by venture capitalists with whom I work. I often evaluate compa-

nies, people, and business plans for venture capitalists. Sometimes I even join the boards of start-up companies to help them succeed. Who would best invest the last $1 million that I earned and gave to the government, me or high-tech VP Al Gore?

Silicon Valley is an island of capitalism in a sea of collectivism. We are surrounded by big governments, big unions, big media, and big, statist corporations. We are an island of meritocracy in a sea of power struggles. In Silicon Valley, the phrase "what you know is more important than who you know" is a fact of life, not just an unrealized ideal.

DO NOT NORMALIZE SILICON VALLEY'S RELATIONSHIP WITH WASHINGTON

By the very way it works, Washington undermines the free minds and free markets that are the cornerstone of Silicon Valley's success. Republicans claim their party stands for free markets, but they are the enemy of individual freedom, desiring to control by Federal law what you watch and what your reproductive habits are. The Democrats claim that their party stands for individual freedom, but they have always been the party of the free lunch, the party willing to tax and spend because they arrogantly believe they have a better idea of what to do with your money than you do.

The metric that differentiates Silicon Valley from Washington does not fall along conventional political lines: Republican vs. Democrat, conservative vs. liberal, right vs. left. The key issue separating Silicon Valley from Washington is freedom vs. control. That is the metric that contrasts individual freedom to speak vs. tap-ready telephones, local reinvestment of profit vs. taxes to Washington, encryption to protect privacy vs. government eavesdropping, success in the marketplace vs. government subsidies, and a free Internet vs. a regulated Internet.

Once you understand that the left-right or liberal-conservative dimension is not the dimension that measures the gap between Silicon Valley and Washington, you will begin to see that the Washington politicians who argue vehemently about their supposedly profound differences are really cut from the same cloth. Think about the ultimate left- and right-wing figures in history. Perhaps the ultimate left-winger is Joseph Stalin and the ultimate right-winger is Adolph Hitler. Were these men really that different? Or does the left-right spectrum actually turn in on itself, putting Hitler and Stalin next to each other? I believe Hitler and Stalin were nearly the same, with the only thing separating them being the list of things for which they would kill you. In these less totalitarian times, we might view famous current left- and right-wingers, Teddy Kennedy and Newt Gingrich, as being nearly the same, separated only by the list of things for which they would put you in jail or take your money.

The political parties are not even delivering their half-promises of freedom. The Republicans are not delivering on economic freedom, and the Democrats are not delivering on individual freedom. Newt Gingrich, the self-proclaimed champion of small government, just managed the passage of a bill to purchase hundreds of millions of dollars worth of C130 cargo aircraft that the Pentagon stated publicly it did not want. The Pentagon has complained that it receives unneeded C130's every year, which it quickly passes along to National Reserve units. Quite by coincidence, those C130's are made in Georgia, Gingrich's home state. And Kennedy, the champion of personal freedom who protects individuals from big corporations, just authored a healthcare bill, which for no discernible reason whatsoever allows the American government to confiscate your assets—yes that is right, to violate the Constitution and take away your property—if you obtain foreign citizenship.

Who goes to Washington? Those who have chosen governing—that is, ruling—for a profession. Washington is in the business of restricting freedom, and, therefore, in the business of undermining the foundation of Silicon Valley.

On the economic side, what has Washington got to offer Silicon Valley? Consider the pork-barrel process by which Washington works: it extracts 20 percent of the yearly output of Americans as Federal taxes, consumes much of it to run a grotesquely inefficient organization, and then allows us to fight to get back the rest of what we first earned in the form of grants and subsidies. Silicon Valley is not very good at the pork-barrel game. Statist companies have refined their lobbying skills for decades. We cannot and do not want to win at their game. Famous bank robber Willie Sutton, when asked why he robbed banks, said, "Because that's where the money is." Today, Silicon Valley is where the money is. Anyone who believes that money will flow uphill from Washington to Silicon Valley is very naive.

Simon Cameron, three-time U.S. Senator from Pennsylvania from 1847-1877, said, "An honest politician is one who, when he is bought, stays bought." By that standard, President Clinton is not a good politician. One of the few political issues of interest to Silicon Valley is shareholder litigation reform, an effort to protect our

businesses from continuous barrages by the shareholder lawsuit industry. Over half the member companies of the American Electronics Association have been sued for shareholder fraud by a small group of law firms specializing in this lucrative endeavor. We must believe that either half of AEA member companies are crooked, or that we have a group of lawyers running amuck. In 1995, Silicon Valley lobbied for the Securities Litigation Reform Act, the SLRA, an act that put a higher burden of proof on plaintiffs in shareholder lawsuits before they are allowed to initiate the extraordinarily expensive discovery phase of a trial.

My company was sued in 1992 when our share price dropped after we reported $0.15 earnings per share for the quarter compared with analysts' expectations of $0.20. The "fraud" claim was "justified" by using several of my quotes (for example, in 1991, after seven consecutive years of growth, I said we expected to grow again in 1992) and by declaring that earnings below expectations must therefore constitute fraud. This ridiculous complaint, created in hours by a legal lawsuit factory, launched us into a 5-year, $5-million proceeding, before a Federal judge found the case had no merit and threw it out of court.

The 1995 SLRA was carefully crafted by the Senate to balance the opposing objectives of limiting frivolous lawsuits while preserving the right to sue for those truly defrauded. Even though Clinton wooed Silicon Valley by telling us he supported litigation reform, he had also taken political contributions from plaintiff lawyers. He chose them over us and vetoed our litigation reform bill. Fortunately for us, the SLRA was so well-crafted that a Democratic Congress overrode Clinton's veto. Shortly after that fiasco, Clinton returned to Silicon Valley for some more PR and to raise money at a prominent CEO's house at a $50,000 per plate dinner. One dinner topic was litigation reform. Clinton then accepted several hundred thousand dollars to perform a back-flip. He turned on the securities lawyers and denounced Proposition 211, which would have effectively overridden the newly enacted SLRA in California.

Politicians know that playing both sides of an issue often brings in money from each side. Clinton repeated the performance this year when he flew to Silicon Valley for one fund raiser, and then flew on to San Diego the next day for a fund raiser hosted by Silicon Valley's legal nemesis, Bill Lerach.

Siding with the Clinton administration may give Silicon Valley a temporary advantage on some issues, but in the long haul, this administration undermines our basic values. The Democrats have no monopoly on undermining our values. Republican Bob Dole was the patron saint of Archer Daniels Midland's billions of dollars in taxpayer subsidies. Dole flew on ADM's plane numerous times at submarket rates and purchased a Florida condo from ADM, also at a sub-market price.

Pork-barrel politics is not only wrong, it is also highly inefficient. Often, the grants that come back to Silicon Valley are politicized into a state of worthlessness. For example, 4 years ago, *Electronic News* published a report about making gallium arsenide—a semiconductor several times faster than silicon—aboard the space shuttle. Despite my own graduate-level training in transistor physics, and the fact that I was a member of the board of directors of Vitesse Semiconductor, the largest commercial manufacturer of gallium arsenide chips, I could see no economic benefit whatsoever in the space chips. Neither did Dr. Lou Tomasetta, Vitesse's CEO, who called the space chips "a solution looking for a problem." In this case, an "industry-government partnership" launched several $150-million shuttle flights without consulting with the industry partners, who would have predicted correctly that the "chips in space" program was useless. This is a classic and apparently contagious example of collectivist science: When I visited Zelenograd, Russia's version of Silicon Valley, near Moscow, I found that the Politburo had funded the same project. Stacked neatly in the corner of a museum were space-grown crystals not only of gallium arsenide, but also indium antimonide and lithium niobate.

On the personal side of freedom, Washington is in the control business, but faces an obstacle described by Ayn Rand, in "Atlas Shrugged," "There's no way to rule innocent men. The only power government has is to crack down on criminals. When there aren't enough criminals, one makes them: one declares so many things to be a crime that it becomes impossible for men to live without breaking laws."

Many of you who traveled here may not know that you broke a Federal law. This year, under a new law, it is illegal to carry prescription drugs not sealed in their original container. So, if you use a pillbox to carry a prescription drug along with your aspirin and vitamins, you broke a Federal law.

In addition to the asset confiscation penalty on foreign citizenship I described earlier, Sen. Kennedy authored a law with 100 pages of "healthcare crimes," which also passed this year. These laws also turned the Federal Governments new weapon of choice—asset confiscation—on doctors that commit such crimes. Kennedy is ready to guarantee our so-called right to healthcare—by violating Americans' Fourth

Amendment right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." Why should Silicon Valley engage with a culture that attacks freedom on so many fronts?

As "healthcare crime" laws are to medicine, so are the extraordinarily ambiguous and illogical antitrust laws to business. Rand ridiculed the contradiction of "free markets, enforced by law." The antitrust laws, a modern invention of the so-called trustbusting era—in effect make it illegal for a company to be conspicuously successful. The ambiguity of the laws grants the government huge powers to define on an ad hoc basis what is legal and illegal, thus giving it control over the company's operations. Often the government uses another oxymoronic device, the "consent decree," to enforce its will on businesses seeking to avoid protracted litigation against a foe with unlimited resources.

Illogic comes from illogical laws. Consider the 1945 antitrust case of the United States vs. Alcoa Aluminum. Federal Judge Learned Hand was Alcoa's judge and jury in that case, as is typical in antitrust cases. He broke Alcoa apart with a judgement that contained this rationalization:

> It was not inevitable that [Alcoa] should always anticipate increases in the demand for ingot and be prepared to supply them * * * before others entered the field. It insists that it never excluded competitors; but we can think of no more effective exclusion than progressively to embrace each new opportunity as it opened.

That's right, Alcoa was convicted and broken apart for committing the crime of building an efficient company that gained market share!

Some high technology companies are now conspicuously successful. And, true to form, Washington's attack on Intel and Microsoft already has begun. The dreadful vagaries of the antitrust laws are most evident in the ongoing Microsoft trial. A single judge listens to the complaints of a few resentful competitors, reads a colorful memo from a Microsoft executive talking about "choking the air" out of some competitor, and then has the power to break apart the company founded and built by others over a decade, perhaps destroying billions of dollars of market capitalization in the process. A verdict against Microsoft would read as poorly in time as does the Alcoa verdict now. If convicted, Microsoft would be guilty of this crime: continuously adding features to its software, while bringing the price per function of its software to an all-time record low to the benefit of its millions of customers.

The justice department once offered Microsoft a way out: agree to offer browser software from its competitor, Netscape. I respect Bill Gates for rejecting what might have been a relatively painless escape and for litigating the issue on principle.

Think about the topics of the last few minutes: pork-barrel politics and laws limiting freedom by creating new classes of criminals. Why would we *ever* voluntarily involve ourselves in the Washington morass?

TECHNET, A BAD IDEA

Technet is a new Silicon Valley lobbying organization. Its website shows a cartoon of a Silicon Valley nerd shaking hands with a Washington bureaucrat. Technet could be the unofficial embassy that normalizes our relationship with Washington. That would be a very bad idea.

When I asked my assistant "who the hell runs that organization," she gave me a list of its directors, which included two venture capitalists who funded Cypress in 1983, two investment bankers who brought Cypress public in 1986, a former member of Cypress's board of directors, four CEOs of respected Silicon Valley chip companies, four CEOs of important Cypress customers, and Cypress's current chairman of the board of directors. At that point, I thought my criticism of Technet might best be done with diplomacy, but unfortunately, I lack the diplomacy gene.

I opposed Technet prior to its founding. Technet was an extension of the anti-Proposition 211 initiative. After the victory over 211 there was a leftover contributions kitty, and I was asked to leave in Cypress's share to fund other political endeavors, like contributing to politicians who support Silicon Valley. My refusal letter read as follows:

> I am really speaking out against that pork-barrel system. Why else would I lobby against Sematech, a subsidy for my own industry? I also lobbied against the Department of Commerce—to abolish it—specifically because it is one primary vehicle of corporate welfare. Given that mindset, you can understand how I would never support a politician like Anna Eshoo [a local Silicon Valley Democratic congresswoman]. She may agree with us on one or two technology issues to save her political butt, but she is a liberal-socialist who voted to increase taxes on all American corporations. She is the

> enemy, standing against everything I stand for. It is only an accident of political expediency that causes her ever to be on the same side of a given issue. Just as I wouldn't give money to PBS television, to be used to batter free markets and corporations, I don't give money to politicians to buy their vote on any given issue.

I guess you could say that I was adamantly opposed to Technet, even before it got started.

At least Technet is honest in its support of the pay-for-play Washington system. Here is an excerpt from a typical Technet email:

> I would like to call your attention to two congressman who have recently visited Silicon Valley and who have played a key role in our * * * success. Rep. Billy Tauzin * * * and Rep. Mike Oxley * * * We'll be following up with phone calls and emails to ask for your financial support for these two friends. We hope you will consider making a $1,000 donation to each of them.

It seems that Technet agrees with Will Rogers' observation that "America has the best Congress that money can buy."

In fairness to Technet, I should mention that its two current initiatives are K-12 education reform, and the Unified National Standards Act, yet another law designed to eliminate frivolous shareholder lawsuits, one necessitated by the fact that securities lawyers now sue companies in both state and Federal courts, under two sets of rules, making securities lawsuits even more painful and expensive.

Since Technet is not about to close up shop based on my criticism, I hope it will at least follow this advice:

- Never lobby for pork-barrel measures;
- Never move headquarters to Washington (the demise of other lobbying organizations);
- Never lobby for a narrow issue like beating Microsoft at the expense of a fundamental issue like government control over free markets.

JOHN DOERR, VENTURE CAPITALIST

John Doerr was a leader in the victory over Proposition 211, and is currently a Technet leader. The press has singled him out as the icon for the political greening of Silicon Valley. John has supported the current administration, and there is talk in the Valley about "Gore and Doerr in 2004." In addition, John is a general partner at Kleiner, Perkins, Caufield & Byers, one of the firms that funded Cypress. He also served on Cypress's board of directors for 10 years. And he is a friend of mine.

Once I stated in a magazine interview that John Doerr would be better off if he stayed home and did his job as a venture capitalist. John read my remarks and reasonably misinterpreted them as criticism. He shot back in another magazine article that I was a "cowboy entrepreneur" who needed to think beyond the confines of Silicon Valley. After that, I called John to explain to him in detail what I meant by my statement. First, I got him to agree with my premise that the biggest success he could have at Technet would be to get the Unified National Standards litigation law passed quickly and efficiently. (Today, he would probably also add improving K-12 education as a big goal.) Once we had established the definition of success for John Doerr at Technet, I reminded John of the success he had already achieved as a venture capitalist. What I said to him was a lighterweight version of the following statement, which I have enhanced by reading through the reports I receive from Kleiner-Perkins:

> John, in addition to starting Cypress, you and your firm also started eight other chip companies—including big winners like LSI Logic, VLSI Technology and Xilinx—companies with $4.7 billion a year in revenue and 16,400 employees. By funding such companies as America Online and Netscape, you commercialized the Internet and then enriched it by funding companies like Amazon.com that put the bookstore on line. In addition to that, I am aware of a dozen or more new companies Kleiner-Perkins has funded that will literally define the future of the Internet. You and your partners also launched the biotech industry by funding not only Genentech, but 20 more biotech and healthcare companies that fix vision with lasers, perform genetic engineering, create skin tissue to repair burns, make ultralow-dosage X-ray machines, and produce equipment for use in spinal surgery. One of your companies could literally cure cancer.
>
> And you and your partners, along with the network of Silicon Valley venture capitalists, have funded those amazing companies that have revolutionized our country—for less money than it takes to build a single warship.

> John, who is more valuable to us? John Doerr, the lobbyist who can get the Unified National Standards Act enacted, or John Doerr, the venture capitalist who has helped change the world?
>
> John, we can't afford to send you to Washington.

How could John Doerr respond to that? He said, "Well, when you put it like that * * *."

John Doerr is a great example of the enhanced value of an individual in a capitalist society. The example also dramatically illustrates the efficiency of free-market investments, compared with the investments of collectivist organizations. With the money to buy one warship, the Politburo probably would have bought one more warship, later to be mothballed. Japanese and Korean collectivists probably would have added another unneeded semiconductor memory plant to acerbate the current chip glut which is so severe it has devastated the Japanese and Korean economies.

In Silicon Valley, with the same money, John and the network of venture capitalists built an economic battleship that generates wealth from the private property of ideas traded in a free market.

Washington builds battleships, battleship laws, and battleship bureaucracies. That's why we shouldn't normalize our relationship with it. To do so would be to choose against capitalism and freedom. When we see the government attacking our successes, such as Microsoft and Intel, we should stand together to defend that attack on free markets. And when we see the government seizing the assets of tobacco companies, we should not be quiet because we don't like tobacco. The obscenity of Federal and state attorneys general lining up like plaintiffs' attorneys to confiscate the assets of a company will surely be repeated. Right now, Washington is already calling the much-publicized "Year 2000" problem a "chip problem." I won't waste your time on the technological absurdity of that position.

The point is that if we sit back while the government illegally seizes the assets of the tobacco companies, we may find the same carpetbagging attorneys suing to gain Silicon Valley's assets soon after January 1, 2000.

Silicon Valley is an island of capitalism and freedom admired around the world. We must remember that free minds and free markets are the moral foundation that have enabled our success. And never allow those freedoms to be diminished for any reason.

Chairman KASICH. I want to really compliment all three of you for just outstanding testimony. I have just one or two questions and then I will recognize Mr. Ryan. Mr. Miller, you make a very compelling argument. What does the other side say?

Mr. MILLER. The other side will say it is jobs and they can't compete in the world market. But they say you have subsidized sugar elsewhere around the world. We have subsidized sugar in France but we have laws keeping subsidized products from coming into the United States so that is not a valid argument. Yes, if they have to compete in the world market you may lose a few jobs but agriculture is a huge net exporter for this country as far as our ability to compete. We should be able to compete. When you start protecting industries, as we have with sugar, you are making them less efficient and you are enriching a very small number. So the argument they will make, we will lose jobs. But I say you are losing jobs from the companies like candy companies and cereal companies. Congressman Don Manzullo, from the Chicago area, says he has a cough drop company that won't move the rest of their facilities from England because sugar is too expensive in the United States. Soft drinks, Coke and Pepsi no longer use sugar in their drinks in the United States because sugar is too expensive. So we have cost jobs even though some people with individual sugar growing districts would argue that. That is the only argument they can make.

Chairman KASICH. What do you three gentlemen think we can do to get something accomplished on these fronts? And I know that you all share each other's feelings about your specific testimony.

Why don't we start with you, Mr. Shadegg. What are we going to do to—what is it going to take to be successful in your judgment?

Mr. SHADEGG. I think it is extremely difficult to succeed in this area in this climate because you see just yesterday the Federal budget apparently is going to sustain an additional windfall and more revenues and I think some of the pressure that was there when we first started down this road may well be gone. But I do think that American politics is driven by fundamental fairness and I think as my colleague Mr. Miller pointed out, there are always winners, and Mr. Sununu made the same point. There are always winners and losers in each of these programs. The sugar subsidy is a good example of that. The power marketing administrations are good examples of that where some people are winning and benefiting and others are hurting, and yet I think it is clear that in each and every example of corporate welfare, if the program were eliminated and in some cases you have to eliminate it in a careful and methodical fashion so you minimize the losses and maximize the benefits of the program, at the end of the day doing away with these corporate welfare subsidies will benefit all of the taxpayers, make more dollars available.

So I think it is largely an education effort so that people understand two things, one that the winners really aren't winning all that much and second, that it is not justified. I think that is completely—a completely fair description of, for example, the power marketing administrations, the sugar subsidy, and so many others, as Mr. Sununu pointed out, where government picks a winner or loser and typically picks an inefficient winner punishing everybody else for that agency.

Chairman KASICH. What approach do you have in terms of eliminating the Department of Energy? Where are you at this point?

Mr. SHADEGG. Well, quite frankly, Todd Tiahrt has the lead legislation in this area and has had for the last several congresses. I think he is doing the right thing. Your colleague Mac Thornberry is noted as being in the morning paper, the Hill, in trying to work in some restructuring in those areas where the Department of Energy should continue to remain active, the labs themselves. And yet, as you see, he is being punished by the Secretary of Energy for his efforts and there are threats to fire employees inside the department who are cooperating with Max's efforts.

I think you said the right thing. I think what we have to do with regard to the Department of Energy is sort out that which needs to be done and should be done. Clearly we have to have some weapons labs. Clearly there are some other programs within those departments which should continue. But there are quite clearly also many, many, many programs.

Indeed, I would suggest perhaps more than half of the department's budget which could be flat eliminated without having a loss. Like any other institution, it has sought to perpetuate itself. With the end of the Cold War, the demands on the Department of Energy weapons labs have diminished and yet they wanted it to serve a need so you have seen private industry become much more involved in those labs. It is taking advantage of those labs and we are wasting millions if not billions of taxpayer dollars. I think we have to do a very, very aggressive job at looking at what should

just be gotten rid of completely, done away with, gone, finished. And I think that we have a window of opportunity to do that now because of the security breaches which has caused everyone to focus on what is wrong at the lab.

Chairman KASICH. Mr. Miller, what challenges do you have and how do we——

Mr. MILLER. Speaking about sugar specifically, during the authorization bill in 1995 we came within five votes of the House. It came very close. This had good bipartisan support. It was the Miller-Schumer bill. Congressman Schumer is now Senator Schumer and he is leading the effort over in the Senate side. Now it is the Miller and Miller bill with George Miller. George Miller and Dan Miller don't always vote alike but we agree on this issue. The broader we can get our coalition to support this the better. It is going to be a perseverance effort. We have got to stick with it. As you know a few years ago we used to have a wool mohair program. We had a honey program. It was just year after year you just keep hammering away at the program. The American people get tired of this. There was an article in Readers Digest not long ago about the sugar program. NBC's the "Fleecing of America" did a piece about the sugar program. Time magazine has done an article. The more the American people get fed up with this program, raise it with their representatives, Democrat and Republican, the better the chance we will have to do it.

Now, with the sugar program you can't just go to the Agriculture Committee and ask for them to get rid of the program. They are not going to do it. I testified before them and they are not as friendly a group as we have here in the room today. But the fact is it has got to come up for reauthorization. When we reauthorize programs as discussed earlier by the budget questions, that is the opportunity we have that we should force the fights on these issues and we need to build up that coalition and just don't give up, and that is the position I am taking.

Chairman KASICH. Is there any dispute about the impact on the Everglades?

Mr. MILLER. No, there is no dispute. We are going to spend in the $10 billion range to restore the Everglades but sugar is only one of the contributing factors. It is not the only cause of it. But the problem is they are only going to contribute roughly 2 percent to the total cost of the restoration of the Everglades yet they are a major contributor of the problem. One of the other irritating things about this program is that one of the solutions of the Everglades is buying up land to filter the water as it goes through the Everglades. We are buying the land from the sugar growers and we are paying an inflated price for the land because of the sugar program, which makes no sense. And so we really got a double hit in that area.

Chairman KASICH. Mr. Sununu.

Mr. SUNUNU. I think to answer your question about what can be done, I would begin with enforcing and doing everything we can to enforce fiscal restraint of these spending caps, the budgetary caps, because what they have done over the last 4 or 5 years is to force choices to be made. And as a result, we have seen that in programs like Advanced Technology Program, there has been a reduction, not

the elimination of the program, but a reduction in the funding. In the case of fossil fuel R&D or clean coal R&D, programs that have been very ineffective, we have seen a reduction in funding.

So the pressure of the budget caps have forced us to make some choices and in this case good choices by minimizing the amount of funding that is going to these subsidies and these market distortions. I think budget process reform is part of the answer, focusing on the needs to ensure that programs are either authorized or they don't get funded.

Sunsetting programs was talked about earlier by the first panel and finally to focus our efforts as you have suggested, Mr. Chairman, the opportunity to create a coalition and to focus on one or two programs, achieve success in those areas, and then move on in order to highlight the fact that with a little bit of unity and a little bit of focus of resources and effort we can be successful in energizing the public, getting them to recognize how much of their money is being wasted on these programs and then make a difference.

Chairman KASICH. Mr. Ryan is recognized.

Mr. RYAN OF WISCONSIN. I want to thank the Members for coming here today. I am a new Member of Congress and I came with a little bit of experience here and I witnessed in the 104th Congress tremendous amount of momentum in the direction of eliminating the Department of Commerce and the Department of Energy, and eliminating the sugar subsidy five votes short. The momentum was there and it seemed to be based upon a philosophical principle that no longer should the government be involved in picking winners and losers in the marketplace but that the taxpayers through the private free market should do those types of decision making.

It seems like we have strayed from that goal, strayed from that vision, strayed from those principles and although the discretionary budget caps helped put pressure on these things, I wanted to ask you since you as Members of Congress, Dan, I think you are in your fourth term, and John, you are in your second—why? What has been happening? Why have we lost momentum on this point? Let's go to the senior one, Representative Miller.

Mr. MILLER. Well, there is a broad coalition of support for these programs unfortunately. I will stay with sugar since that is what my specific topic is today. We have a great coalition opposing the sugar program. We have consumer groups which recognize what a regressive tax is. We have the environmental community strongly supporting us on this. We have all the conservative anti-big government groups against this. And anybody that uses sugar is against it. Now, who's in on the other side? It is only the small group of sugar growers. But again, they just team up with other people. I have to scratch my head how other conservatives justify this program. I was a little baffled when I went through the fight in '95. But the frustration now is it will not be up for reauthorization until 2002.

When we can sunset things and force them up for authorization, we have a real fight. Trying to do it through the appropriations process, which is the committee I serve on, is not where the battle should be. You are not going to get a free standing bill up there.

We have to gear up for the reauthorization. I think the more we can force authorizations and allow those fights to take place, we are going to have some victories. So we are going to have some victories but we are going to have to keep perservering.

Mr. RYAN OF WISCONSIN. If I could add to your point and as a cosponsor of your bill I think the environmental concerns were important and valid ones but in my district there are jobs concerns. Nestle's has a plant in Burlington, Wisconsin which we call Chocolate City, U.S.A. In Burlington, Wisconsin we do Nestle's Quick, which is the milk powder you add. We do the Nestle's crunch bars. We do the big size, the little bite size. Nestle's employs about 400 people there in Burlington, Wisconsin. It is a state of the art plant. They want to expand in this plant but they will not do so because of the price of sugar. We have a milk system that also is out of whack and I won't get into that but Nestle's wants to employ more people in Chocolate U.S.A. Because it is a great community to build a plant in to build more jobs, but because of the price of sugar these jobs are not going to be created. They will actually be created in other plants they have overseas. Now, it seems to me that we are at a critical philosophical juncture. Where are we going to decide that the nucleus of our economy is? Washington and bureaucrats and the Department of Commerce, Energy, and other places which are going to pick the winners and losers in the marketplace or are we going to go back with the Constitution and the idea that the individuals are the nucleus of our economy. That seems to be where we are right now.

You know, we have asked welfare mothers to go back to work and earn a paycheck instead of going to the mailbox to get a welfare check. It seems to me that is very fitting to ask big corporations who are getting corporate welfare checks from Washington to go out and earn a profit and go back to work themselves instead of coming to Washington for a handout. It seems only logical. I would like to ask Congressman Sununu a couple of quick questions about the Department of Commerce.

I believe that was an agency created in 1910 and has evolved so much over the years. What do you think are other ways that we can do to pursue the advancement of commerce and do you believe that the Department of Commerce needs to exist? I know your answer on that one, but has it outlived its use on this and is it a tool of economic development encouraging economic growth or is it a barrier toward economic development and economic growth?

Mr. SUNUNU. I think in a lot of respects it is a barrier to economic growth. But let me talk a little bit about what exactly the dismantling act would entail because as is the case with the Department of Energy, there are components of the Department of Commerce that really can provide long-term value and that in fact in some ways ought to be given greater independence. Specifically the National Weather Service and NOAA. The bill would establish—would consolidate the oceanographic and atmospheric and scientific functions of NOAA within a much more independent National Oceanographic and Atmospheric Administration. It would bring together the Bureau of Standards, spectrum research, the National Telecommunications Information Administration and the Office of Space Commerce, bring all of these within the core func-

tions of NOAA and preserve the functions of the National Weather Service.

But at the same time it would, one, consolidate all of the duplicative agencies that handle trade functions which include the International Trade Administration, the Bureau of Export Administration, the Office of the United States Trade Representative, and the Inspector Management within the U.S. Trade Administration, bring those all together into a single trade agency. It would terminate some of the unnecessary programs that I spoke about earlier, the agencies of the EDA, the National Telecommunications and Information Administration, and the Technology Administration that simply have outlived their usefulness if they ever had any usefulness in the first place. And then it would wipe out certain department programs like the Office of Technology Program, the NOAA Fleet, and the Advanced Technology Program that are counterproductive as you described earlier or even the grant programs under the National Telecommunications and Information Administration that oftentimes are targeted at specific states. Just to go down a few programs and it is not necessarily a specific criticism of what might be produced by the program, but you certainly have to question whether it is a Federal function at all or whether it belongs in the Department of Commerce when we have a sea grant oyster disease account, zebra mussel account, the mussel program, the Charleston, South Carolina special management plan, the Chesapeake Bay observation buoys. These may or may not be worthwhile programs but is it really a Federal responsibility? And in some cases if there is going to be funding and research it ought to be done through agriculture or through the fish and wildlife in the Interior bill. There simply is not a need for a stand-alone Department of Commerce that is picking the winners and losers in our economy.

Mr. RYAN OF WISCONSIN. Could I ask each of you this question. What are the savings estimates on the different bills you are talking about and what would be the 1-year savings estimates?

Mr. SHADEGG. Let me start. I would like to if I could, comment briefly on your first question because I think that was a very important question. What is the difference in the dynamic from 1994 when we first came in, and I know you were here then, not in the same capacity, and now? I think it is a function of the law of diffused interest versus concentrated interests. A reality is that each of these programs has a concentrated interest which supports it, which is a very, very small portion of the overall economy. Those who benefit from the sugar subsidy, those who benefit from the power marketing administration. Those are concentrated interests. The interests in favor of the greater good, not wasting the money on these programs is a diffused interest. On any given program those who object to it and are being hurt by it are being hurt to a very, very small degree. Those who are benefiting, for them it is life and death. I think in 1994 we came here with an overall purpose of looking at the scope of the Federal Government. We were looking at the big picture and we were willing to focus on those diffused interests and the concentrated interests hadn't been able to respond. I think you cite a very good example of where we were successful. Welfare reform is a good example of where we looked

at the program. There was a diffused interest in eliminating it, but there had been enough publicity on the abuses in welfare that that diffused group of all Americans said look, welfare isn't working. That was fundamentally the objection and so we were able to overcome the resistance of the concentrated interests, those they believed to be benefiting from the current system.

As it turns out, we were right. People who were benefiting under or thought they were benefiting under the old system hadn't been benefiting, weren't benefiting. They are much better off now than they were then and that has been demonstrated all across the country. I think then is the message of how we recapture that. I don't think without the change in control of the Congress you can ever have that broad range of power to take on concentrated interests in the interest of the greater good, the larger.

So I think what we have to do is focus, focus as a Congress, focus as a Federal Government on specific programs, educate the American people on why those specific programs are bad, the sugar industry—subsidy being an example, the power marketing administration being an example. Point out how those are hurting everybody and not working and then we can realize kind of the greater good. You can empower the diffused interest to overcome the powers of the concentrated interest.

As for your last question, the subsidy of the power marketing administrations is about—I am just talking about SEPA, SWPA, and WAPA—is about $300 million per year. The revenue estimates from the sale depending upon whether you do a sale to the highest bidder, which I think is politically impossible because the concentrated interest of the people that are getting cheap power will block you or whether you do a voucher privatization like the Czech Republic, as I mentioned in my testimony, where you allow the people currently benefiting from subsidized PMA power to get an economic benefit. I have a friend who worked here in Washington for a while, an economist, Hoover Institute trained economist, who in discussing the power market administration said, look, it may be a subsidy but they stole it fair and square. And what he was saying was the people benefiting from the PMAs have that right right now and it's difficult to take it away from them. That is why I think it is important to become a genius. The legislation we wrote says, all right, you are getting it back right now. Let's reward you. Let's let those people getting subsidized public power benefit from the sale of the PMAs and quite frankly legislation proposes that they be sold to those same people so they stay in control. We give them an economic incentive to stay happy with a privatization. It worked in the Czech Republic. I think it can work here. It can overcome the power of their concentrated resistance.

Mr. RYAN OF WISCONSIN. One of the reasons why I asked about the scores, is because I see rising out of your testimony possibly a new strategy and a new consensus of how to elevate the diffused interests, and that is this. Congressman Sununu, you mentioned that the pressure of living under the discretionary spending caps has helped us pursue these goals of eliminating corporate welfare. Well, that pressure is really mounting right now. And these discretionary spending caps as we designed them in the Budget Committee revolve around the goal of protecting the Social Security

trust fund, revolve around the goal of saying every penny of Social Security taxes you pay should go to Social Security, period, end of story, and take that off budget. Then what you are left with is a quandary we have right here in Congress this summer with the spending caps with our appropriation bills. We are now at a point of deciding priorities and spending within the Federal Government and there are obviously different degrees of these priorities. Do we help with veterans health care? Do we help with education, other types of programs? And when you put these corporate welfare programs against these programs, when we are coming under tremendous pressure to stick to the discretionary spending caps, which we all support doing and on top of that support the discontinuation of the raid on Social Security, I think the diffused consensus, the diffused effort to try and go after these corporate welfare programs is significantly buttressed. That is why I asked what kind of money are you talking about that we are going to save and can we transfer that money into our priorities within the discretionary budget caps?

Mr. SUNUNU. Congressman, in the case of the Department of Commerce legislation, there is in excess of $700 million in direct grants from the programs that provide the largest amount of grants to either otherwise profitable corporations or entities that really aren't deserving of those grants and then through the consolidation of the trade functions and the consolidation of the oceanographic and weather functions I think it would be very realistic to realize in excess of $300 million in savings, which would bring the total savings on an annual basis to over a billion dollars.

Mr. RYAN OF WISCONSIN. It is a lot of money.

Mr. MILLER. The sugar program the General Accounting Office estimates it is over a billion dollar cost to the American consumer. It is rather shrewd the way the program was developed. Actually, on paper the Federal Government makes a little money from the sugar program because the sugar growers are in effect taxed to keep the program going. The Federal Government makes about $50 million off of it. However, the General Accounting Office also looked at what the sugar program costs the Federal Government and it is over a $100 million because we are a huge purchaser of food products, food stamps, veterans hospital, military facilities that provide food. So there is a real cost but the thing is it is just bad economics. It is bad for trade. It is bad for the environment. It has got all the other bad reasons.

Mr. RYAN OF WISCONSIN. Thank you very much, gentlemen. I yield back the balance of my time.

Chairman KASICH. Mr. Wamp has one question and then we will get to former member Bob Shamansky before we go to a vote. Zach? Mr. Wamp?

Mr. WAMP. Thank you, Mr. Chairman. Just a quick statement about farm subsidies. When people ask me after four and a half years of serving in the House what surprises me the most, it is always my first response that somehow agriculture subsidies and the whole price support system have survived this changeover in mentality from Democrats to Republicans. Agriculture is just so institutionally prominent around here. I still can't believe that we say we are reforming things, but it continues on. I oppose them all, and

I commend you for continuing to push this issue even though it gets drowned out by so many other issues and even though there is such a bipartisan coalition behind the continuation of these programs.

But my question, Mr. Shadegg, is about the Department of Energy. I would first ask that we are careful in painting everything at DOE with the same brush. Clearly there are a lot of problems with weapons labs, security and espionage, et cetera, et cetera. We all know about that now. But if you look at the multipurpose laboratories, like Oak Ridge National Laboratory, which I represent, Argonne, Brookhaven, and the other labs, there is a lot of positive science taking place. The only caution I would raise as we evaluate the effectiveness of the Department of Energy, and I am disappointed as well even though I have a site in my district with the management by the Department of Energy, that we are careful to not lose any of the equity that the government has in these multipurpose laboratories and the value of the laboratories. As we look at your proposal, for instance, how would we address the management of the science investment that this Federal Government has?

Basic research is a legitimate Federal Government role and we need to protect those facilities where we have so much value coming to not just the government but directly to the people in this country. I would also say when we first were elected, you and I together and came here, the Galvin report had just come out. It assessed the role of the national laboratories, because we as a nation have not come to grips with what is the role of the laboratories in the post Cold War era. For over 50 years our national laboratory system was driven by one thing, one mandate: To be nuclear supreme as a nation. Well, we accomplished that. Cold War is over. We are the most supreme nation in the history of the world in terms of this. The buildup and the science investment was all predicated on national security needs.

We haven't established as a nation yet what is the role of our national laboratory system in the post Cold War era. As you look at reform proposals for DOE or anybody else that is in the science and basic research business, we need to say where are we headed? What are we trying to do? Are we going to try to keep people alive and be a hundred years old? What is the mission? What is going to drive this investment? Otherwise it ends up being an annual maintenance obligation as opposed to a real vision for our country.

Mr. Shadegg.

Mr. SHADEGG. I would agree with you that the fundamental question is what should the role be. I think I would also completely agree that in this post Cold War era, the role of the laboratories deserves to be reexamined. In an earlier exchange between myself and the chairman, we talked about the fact when you do an audit of DOE, you need to look at what functions that it is important that it continue to do and I think the labs fall in that category, but there are things that even the labs are doing that may not even be necessary. I cited an example of a program where Sandia Lab is working on improving the fireworks at Disney Land, a $300 million program. Why do we need that?

I think it is very important that we ask what are the functions of the Department of Energy, are they properly organized and

where should they be located in structure? Clearly the work of the weapons labs needs to go on, needs to go on under government supervision and is extremely important.

I don't believe you were here for that part of my testimony, but President Clinton had the Foreign Intelligence Advisory Board undertake a review of the labs themselves, particularly the weapons labs, and look at what is going on and their report was scathing. I think you put your finger on it correctly. We need to make careful decisions about which functions are important, what goals we want them to achieve. Beginning—there are critical comments which I went over in researching my remarks for today. There are critical comments about the structure of the Department of Energy and about its lack of mission from literally the day of its creation, and I listened to my colleague Mr. Sununu's comments about the criticisms of the Commerce Department being a hall closet in which you throw everything that you don't know what to do with. I think that is what we have done with DOE and I think it is time to sort it back out, decide what should be within the capacity of DOE, what should the structure be, but also, and the chairman and I talked about this, what things can we flat out eliminate that the government simply has no business being involved in, and that, as I think Mr. Sununu eloquently pointed out, when the government picks winners and says, well, we will subsidize this activity but not that one, we will aid this industry but not that one, we are acting in a way which is antithetical to the premise behind this country, which is an individual initiative ought to be the driving force in our economy and ought to be rewarded, not bureaucratic allocation of money or power.

Chairman KASICH. The gentleman from Georgia is recognized.

Mr. CHAMBLISS. Thank you, Mr. Chairman. I apologize for not being here. I was over in Agriculture Committee dealing with another favorite subject of my friend from Florida, the dairy program. We were talking about something over there that is very appropriate when we talk about the sugar program. Dan and I have had many conversations about this, and while I have no parochial interest in sugar, I very much have a parochial interest in agriculture. In spite of what my friend from Tennessee says, there is a place for Federal Government in agriculture. That place may not be exactly where we are today and where we ought to end up from a Federal perspective but, you know, we don't play on a level playing field in the world market. We keep talking about putting our farmers into the world market. A lot of our crops simply don't have a world market, number one, because of the high subsidies that are paid by other countries and the ability of our farmers to compete is just not there. And I think the sugar program is a classic example of that.

Dan, you are right, there are—there have been changes in that program. They may not have been changes that seemed to be positive but changes that created a positive flow into the U.S. Treasury from the sugar program. There is a tax on sugar growers. It has created anywhere from $3 million to $68 million in positive cash flow into the U.S. Treasury over the last 15 years since 1985, when that program truly went to a no net cost program to the taxpayer. Now, again, you may be right that it has cost attached to it to the

standpoint of having to treat veterans at hospitals or other health care related incidents, but my gosh, what does salt do to people? We can't go into dealing with the cost to the government from agriculture products and determine which ones we are going to try to regulate to a heavier extent based upon health care issues. Be that as it may, we are headed down a road that we have been traveling for the last 5 years, which I think is a very good road, and that is getting the government more and more out of the agricultural arena.

But when we put our charts up back in 1995 and we showed to the American farmer we are going to start reducing the influence of the government in your markets and put you more in the world market, we had that on one side of the chart. And on the other side of the chart, we also had benefits that were going to flow to those folks to make the playing field level, benefits such as reduced regulation. Have we done that? No. We are going to have reduction in taxes. Have we done that? To a limited extent we have. But there were any number of other items over there that we were going to use to offset the bottom line problem that that farmer was going to have in the long run through a change in agriculture policy.

We need to do a better job of keeping our farmers in business, and the sugar program is one that simply doesn't cost the American taxpayer anything. The sugar farmer that participates in the program and gets a loan from CCC has to pay the loan back, and in the last 10 years, the only two loans that have been in default on the part of the farmer have created a positive inflow into the U.S. Treasury because the government wound up selling the collateral for more than the loan amount.

So there has simply been a positive cash flow in the sugar program by the sugar program into the U.S. Treasury that doesn't translate into corporate welfare in any way you look at it.

Now does it cost the consumer more? Now that is an issue that I guess we could argue, but it is not really material to the argument of corporate welfare, but when you look at the numbers again, since 1990, the amount of the world—of the price for raw sugar that was paid to the producer has decreased by 13 percent. Now, has a bar of candy decreased by 13 percent at the retail level? Has the price of any sweetened products—any products sweetened by sugar decreased at the retail level by any amount? And I submit to you that you just can't show me a product that has decreased by any amount even though the price to the farmer has decreased over the last 10 years by 13 percent.

So I would stand and argue with you, Dan, that when we look at programs such as our agriculture programs and, in particular sugar, that there is no corporate welfare there, and I am sorry I missed your testimony, but I have heard it before so I know exactly what you said.

Mr. MILLER. May I respond? I need to—with all due respect, I need to disagree with you. General Accounting Office, which is the neutral authority in this, says it cost the American consumer over a billion dollars a year and consumers are taxpayers, and actually, they are very shrewd, this sugar industry, to in effect create a tax on the sales to pay the government about this $50 million a year.

To me it is the bribe to the Federal Government to keep the program going.

But one thing—agriculture is very competitive in the world economy today. Tropicana is my largest employer in my district. Over 20 percent of their product is sold outside the United States. Over 50 percent of the fresh grapefruit raised in Florida is shipped outside the United States. We have got more citrus than we can sell in Florida, and we have got to find world markets for it, and we have got to open up those markets, whether it is in Japan, China or Europe, to sell our citrus, but if we say, well, we won't let you sell your sugar, but we want to sell our citrus, that is not how you negotiate a trade agreement. Our agriculture people have a huge net surplus in agricultural exports, as you well know. That is one of the shining parts of our export market today.

So we need to open up markets, and if we are trying to defend and protect one, and sugar is about the only one that hasn't changed. They did some technical changes but the price of sugar is legislated at over 20 cents a pound, period. It has been that for the past 10 years. It won't go down because the Federal Government has this complicated process to keep it up there.

So I think it cost the American consumer who is the American taxpayer.

Mr. CHAMBLISS. Let me just quickly respond to that, and that is what I said earlier. When the price to the producer goes down by 13 percent over the last 10 years, you should see a correlation to that savings on the part—at the retail level, and you just don't see it, Dan. You don't see it. I mean, the price of a candy bar has increased, if anything, by anywhere from 10 to 50 percent, in some particular instances that I know about, and it just doesn't work that way.

Mr. RYAN OF WISCONSIN. If the gentleman will yield for a second, we have a vote coming up, but you mentioned you were doing an agricultural hearing marking up a bill to solidify the current status quo on dairy, and I could submit to you that part of the reason why we have had no reduction in the cost of candy bars, specifically chocolate candy bars, is because one of the factors for production, in addition to sugar, is milk, and we have an antiquated, Depression Era, socialized milk system right now that gives producers a higher price of milk. Producers in Florida based upon their geographic location and proximity to Eau Claire, Wisconsin, so we are paying farmers in Florida and New York, Arkansas, Alabama, more money to produce milk because they live farther away from Eau Claire, Wisconsin. And a big part of the reason why candy bars, chocolate candy bars haven't gone down so much is because of this antiquated, socialized milk system we have which in and of itself is a good example of corporate welfare.

Chairman KASICH. You know, the steady, old hand of the chairman, you know, left the dais just for a few minutes, and now this has degenerated so badly. We got milk, sugar and peanuts if the truth be told. Anyway but I think——

Mr. CHAMBLISS. Mr. Chairman, can I add just one thing, though? Now, I am going to agree with you. He hit on something that is absolutely essential for the future of agriculture and the future of these programs, and that is trade. You are right. There are prob-

lems. There is not a level playing field out there, and the way we can level it through good trade notions, and agriculture has not received a profile from a trade perspective that it needed to receive, and it is not just this administration. It is previous administrations also, but I think we are in an atmosphere now where we can make those changes and we can negotiate. If you eliminate the subsidies worldwide, then you are going to see significant changes in our programs, and our folks would be able to compete in whatever may be determined as the, quote, world market, unquote.

Chairman KASICH. We are going to take a recess, but I know that we have got the next panel. Mr. Shamansky, who has been here all day, will be next, along with David Minge. We have two votes. One is 15 and then I think just a vote on final. So we should be able to get back—I will be back immediately and encourage the members to come back, but I think in a nutshell this kind of sums up the problem you have here when you have sugar yes, sugar no, milk. The key is how do we find the handful of issues that can get the momentum going, and it is going to be based upon a strong consensus, not just inside, but with the outside groups as well. I would anticipate we would be back here within 20 minutes. So the committee will stand in recess.

[Short recess.]

Chairman KASICH. The committee will come to order. We have got with us Congressman David Minge from Minnesota, and my friend from Columbus, Ohio, former member Bob Shamansky, and I think Bob, if you don't mind, we will start with David and then come to you, and David, the floor is yours.

STATEMENT OF THE HON. DAVID MINGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. MINGE. Thank you, Mr. Chairman. First, I would like to compliment you on scheduling this series of presentations today. We have had hearings on, so to speak, corporate welfare, and there is probably no area where this is more conspicuous and more egregious than what has been called the competition between the States or smokestack chasing, where one State is trying to raid a business, to raid another State to draw that State's business into its State, where we have professional sports teams who are playing one State off against another, one metropolitan area off against another, to see who will contribute the most money for a stadium, all of this being done at taxpayer expense.

There is some examples of this that really stand out and define the nature and the magnitude of the problem. Let me take a 1993 agreement between the State of Alabama and Mercedes Benz. The State of Alabama and local units of governments in that State provided a subsidy package worth an estimated $250 million to build an auto plant in Alabama. Each of the jobs, estimated to be 1,500, that would be created by the project cost the people of the State of Alabama $168,000.

Similarly, the Marriott Corporation, headquartered in Maryland, determined it needed to build and expand its headquarters facility. It looked across the Potomac to Virginia and started a bidding war between Virginia and Maryland. Before it was over it is estimated that as much as $70 million in subsidies from the State of Mary-

land are being provided to this very profitable and successful business corporation so that it would retain its headquarters in the Maryland area.

Now, this is a contest among the States that many of us may stand here in Washington and look and say, well, gee, this is up to the States to figure this out, but the sad truth is the States can't do it on their own. It is like unilateral disarmament. If the States make a pledge that they are not going to engage in this type of smokestack chasing or raiding, that agreement is only successful until some State decides it is going to break the arrangement.

Probably the longest running competition and the most often violated agreements are between New York and New Jersey. New Jersey with regularity tries to lure corporate headquarters or other facilities from Manhattan across the Hudson River, and they have been successful and New York responds, and then the States agree they won't do it anymore, and next thing you know they are up to the same type of conduct again.

In Minnesota we face this in numerous settings, and it has reached the point where the Minnesota State legislature has petitioned Congress to take action to respond to this type of problem. The State legislative request was matched by a request from the governor of the State, and at least eight other states have made similar requests of Congress. We have the power under the commerce clause of the Constitution to regulate interstate commerce. It is our act. If we want to try to bring some order to this chaos, we can do so. If we choose not to, then this destructive competition among the States, at great expense to taxpayers, continues on from year to year.

Mr. Chairman, in your own State of Ohio I am aware of a situation where the City of Cleveland struggled to keep the Cleveland Browns' ball team. It didn't want the team to move to Baltimore, and the city offered a package worth an estimated $175 million. Yet at the same time the public schools in Cleveland were in trouble. Eleven were closed in 1995 for lack of funding.

Clearly, we have to identify our priorities in this country, and I believe that the citizens in almost every State agree that the priority is not tax subsidies to profitable business operations and to professional sports teams, but instead it is education, and if we are going to be of assistance to the States and the communities with reference to this destructive competition, the type of legislation that I have proposed is the most effective way to proceed.

My bill, which is called the Distorting Subsidies Limitation Act, is H.R. 1060. I have worked on this with economists, with business development leaders and officials from a variety of locations around the country and received support for my effort, and I would just like to point out in closing that this is not a problem unique to the United States. Canada has had this problem. They have taken steps to address it. The European Union perhaps provides the best example. They have recognized that this type of destructive competition within the European Union can cost member countries hundreds of millions of dollars, and as a consequence as a part of the initial charter that was set up, a bureau was created that has the specific responsibility of dealing with this type of smokestack chasing situation in the European Union.

I would urge that this committee recognize the importance of this type of legislation and that my colleagues on the committee join with me in pressing for a hearing before the appropriate committee in Congress and ultimately consideration on the floor in passage.

Thank you.

[The prepared statement of Mr. Minge follows:]

PREPARED STATEMENT OF HON. DAVID MINGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

I am pleased by the opportunity to testify before the committee today on a type of corporate welfare that deeply concerns me due to the extensive cost to the taxpayer.

States and cities across the country are competing against one another to lure companies that will provide jobs to local residents. This has been happening for years, and it probably always will, given our country's commitment to the free market economy and rigorous competition. Some localities simply do a better job of ensuring that their area has an educated workforce, efficient transportation infrastructure, and is generally more attractive to employers. That's one of the tenets of good government—create an environment that promotes economic growth and jobs.

But in the last several years we have seen an increase in competition between the states based on something other than the quality of the roads, schools, or available labor force. Local governments are being forced to spend scarce taxpayer dollars for incentives to attract specific companies looking for a new home, or even more discouraging, just to keep a business from packing up and leaving town.

This practice is wide spread. A 1993 Arizona Department of Revenue study found that half the 50 states had recently enacted financial incentives to induce companies to locate, stay or expand in the state. Targeted businesses have ranged from airline maintenance facilities, automobile assembly plants and professional sports teams to chopstick factories and corn processing facilities. These deals often range into the hundreds of millions of dollars.

For example, Pennsylvania, bidding for a Volkswagen factory in 1978, gave a $71 million incentive package for a factory that was projected to eventually employ 20,000 workers. The factory never employed more than 6,000 and was closed within a decade.

In a 1993 agreement with the State of Alabama, Mercedes received a sweetheart subsidy package worth $253 million to build an auto plant in that job-starved state. Each of the 1,500 jobs created cost the state taxpayers $168,000.

And most recently, the Marriott Corporation gleaned what is estimated to be as much as $70 million in subsidies from the State of Maryland and Montgomery County to expand their operation. This firm has been headquartered for decades in the Free State, and has prospered nicely with the help of an educated and productive workforce. When company executives threatened to pick up and leave after 44 years in Maryland, and when they sat down with Virginia officials to discuss "options," Maryland had little choice but pony up with $70 million in tax breaks and road projects or risk seeing Marriott ride into the sunset.

While spending billions of dollars to retain and attract businesses, state and local governments struggle to provide such public goods as schools and libraries, public health and safety facilties, and the roads, bridges and parks that are critical to the success of any community. These subsidy deals have a direct effect on the availability and quality of public services.

The city of Cleveland, while it struggled to keep the Cleveland Browns football team from moving to Baltimore, announced the closing of 11 schools in 1995 for lack of funding, yet the city offered to spend $175 million of public money to fix the Browns' stadium to ward off Baltimore's successful offer to attract the team.

My own state of Minnesota is experiencing a similar dilemma. There has been a lot of talk in the last couple of years about the Minnesota Twins being lured away by a publicly financed stadium in another part of the country. That talk had quieted but has just recently reappeared on the front pages of Minnesota newspapers. The Twins have long been pressing the state and local government for a new sports stadium. It appears now that the cities of Minneapolis and St. Paul are gearing up for a bidding war to publicly finance a new stadium to lure the team. This comes less than 2 years after the state legislature and the city of Minneapolis decided against financing a stadium.

This is being played out around my state in even our smallest communities. I have had some personal experience with the issue when I served on the County Development Commission in my hometown of Montevideo in western Minnesota. I

know from my own work how frustrating it can be for a smaller community to have to compete with communities that have deeper pockets or that are more willing to give breaks or go into debt to win a deal.

All told, state and local government across the country provide more than $15 billion annually in tax rebates and other subsidies, according to Kenneth Thomas of the University of Missouri, St. Louis. That price tag is staggering. Those funds could educate 3 million elementary school students, hire 300,000 police officers or construct 6,000 miles of four-lane highway.

Millions of dollars of bonds are issued every year by state and local governments to finance projects that benefit a specific business. These bonds are tax free because they were intended to finance schools, infrastructure and other civic improvements, not sweetheart deals to corporations or professional sports teams.

It gets worse. Some of these distorting subsidies are financed through Federal tax dollars. The U.S. General Accounting Office (GAO) reports that Federal block grant funds are being used not only to create jobs, but subsidize the movement of jobs from one state to another. Why should the nation's taxpayers finance these deals that benefits job growth of one state to the detriment of another?

Individual states and local governments are powerless to put a stop to the practice. Unilateral disarmament in this bidding war could mean the loss of thousands of jobs to other jurisdictions. At the same time, businesses cannot be blamed for wanting to move into a community that offers the best incentive package. What is clear is that the system itself is flawed, and that we are due for a tune up.

We must start considering how to stop the use of tax subsidies that squander limited public resources and distort economic decision-making. I am encouraged that nine state governments, including the Minnesota Legislature, have passed resolutions urging Congress to find an answer to this lingering question. I have consulted with the Minnesota's Department of Trade and Economic Development, Mel Burstein and Art Rolnick of the Minneapolis Federal Reserve Bank, Ohio State Senator Charles Horn, local economic development planners and many others to develop legislation and build interest in resolving this problem.

I have introduced a bill that is intended to end competition based on public giveaways rather than sound economic principles. The Distorting Subsidies Limitation Act of 1999 (HR 1060) requires businesses benefitting from special grants or tax deferrals to be taxed on the value of the subsidies at the same rates as currently apply to other income under the Federal corporate tax structure. Let's face it, these subsidies are income that businesses are milking out of local government. I think of this proposed tax as a "sin tax" meant to stop an undesirable activity. I also propose an across the board prohibition on the use of tax-exempt bonds or Federal resources by states and communities to lure businesses or prevent them from considering other locations.

Several other Members of Congress have put together legislative proposals in attempt to halt these distorting subsidies. I salute their efforts, and hope that as concern about this unwise use of public resources continues to grow, we in Congress can hammer out a consensus approach. The point is that Congress is empowered by the Interstate Commerce Clause as the only entity that can put a stop to the economic war between the states.

Mr. Chairman, U.S. Sugar policy does not belong in this hearing.

NO U.S. SUGAR SUBSIDIES OR QUOTAS

The U.S. government has made no payments to U.S. sugar producers in decades. Since 1985, consistent with Congressional intent, U.S. sugar policy has been run at no cost to the U.S. Treasury. Since 1991, U.S. sugar policy has been a revenue raiser, with significant "marketing assessment" funds contributed annually to the U.S. Treasury.

Critics contend that other commodity programs were phased out in the 1996 Farm Bill. In fact, spending by USDA's Commodity Credit Corporation on these "eliminated" programs—such as foodgrains, feedgrains, oilseeds, and cotton—have risen from $4.6 billion in 1996 to an estimated $18.2 billion in 1999—and deservedly so, given the financial crisis in which American farmers now find themselves.

Spending on sugar did not increase one penny during that time, even though producer prices for sugar, like other crops, have fallen since 1996. In fact, expenditures for sugar policy have remained at zero, while sugar policy revenues have averaged over $40 million per year.

There are no longer any domestic quotas for sugar production. Any farmer that wants to raise sugar beets or any investor who wishes to establish a processing plant can do so. Production is a function of the domestic market economy.

RESPONSE TO FOREIGN SUGAR SUBSIDIES

U.S. sugar policy is a necessary response to foreign sugar subsidies. In the absence of U.S. sugar policy, the U.S. would be swamped with subsidized foreign production and efficient American sugar farmers would be driven out of business.

American sugar producers are competitive by world standards. They rank 18th lowest cost of 96 producing countries, most of these developing countries, despite American producers facing some of the world's highest government-imposed costs for labor and environmental protections.

The world market, however, is distorted by enormous production and export subsidies. These subsidies leave the world market for sugar a thinly traded, highly volatile dump market, with price levels currently running barely one-fourth of the world average cost of producing sugar.

If this Committee is looking for sugar subsidies, it would be far better advised to look to the European Union (EU). EU export subsidies on the sugar they dump on the world market are currently running about 25 cents per pound. That's nearly 40 percent higher even than the U.S. support price itself, which has been frozen at 18 cents per pound since 1985.

It would be absurd to cut out the modest U.S. sugar policy while foreign governments, such as the European Union, continue their massive subsidies, which depress the world sugar market. We cannot allow foreign dump market sugar—produced by countries whose producers are less efficient than ours but who enjoy high subsidies—to drive competitive, unsubsidized American sugar producers out of business.

CONSUMER BENEFITS

In addition to the taxpayer benefits, consumers benefit strongly from U.S. sugar policy. American consumer prices for sugar are stable and low. The retail refined sugar price in this country has been virtually unchanged throughout the 1990's. Furthermore, our price is fully 32 percent lower than the average retail sugar price in the rest of the developed world. In terms of minutes worked to purchase one pound of sugar, we are virtually the lowest in the world, second only to tiny Singapore.

CONSUMER RISKS

If U.S. sugar policy were removed, or the U.S. producer price for sugar further reduced, American consumers would see no benefit in the short run and be hurt in the long run.

The food and candy manufacturers and retailers who oppose U.S. sugar policy can offer no assurance that they would pass their savings on lower ingredient prices along to consumers. A look at the past is revealing. For example, since 1990 the wholesale refined sugar price received by sugar producers has dropped nearly 13 percent. Meanwhile, the retail refined sugar price has not dropped at all, and retail prices charged for candy, ice cream, cookies, cakes, and other highly sweetened products have risen 20-30 percent.

In the long run without a stable U.S. sugar policy, American producers would likely be forced out of business and we would become more dependent on the volatile world market. Consumers would face the risk that sugar prices would skyrocket as they have in the past. The food manufacturers and retailers do pass along higher costs.

GAO STUDY

Critics of U.S. sugar policy cite, as their sole source of economic analysis to support their cause, a 1993 study by the General Accounting Office that was requested by ardent sugar-producer foe Congressman Charles Schumer (D-NY). This study, which attempted to quantify consumer costs and theoretical producer benefits of U.S. sugar policy, has been slammed repeatedly by sugar market experts at USDA and at universities.

Experts have excoriated the study because of its simplistic, and utterly false, assumptions. The GAO assumed the U.S. could take all its sweetener needs from the thinly traded, highly volatile sugar market—increasing demand on that market by about 50 percent—without that market price rising at all, and that food manufacturers and retailers, who would have access to this endless supply, frozen at a low price, would then pass 100 percent of their savings on low sugar prices along to consumers. In fact, history has shown the actual passthrough is much closer to 0 percent.

JOBS

While job loss in the U.S. cane refining industry has been unfortunate, it has been far outweighed by the spectacular growth of jobs in the U.S. corn sweetener industry.

During the mid-1980's, U.S. beverage manufacturers switched from sucrose sugar to lower-priced fructose corn sweeteners. As a result of the decreased demand for sugar, the U.S. imported less foreign raw cane sugar, some U.S. cane sugar refineries closed, and several hundred jobs were lost. However, this foreign-sourced cane sugar was replaced with domestically sourced corn sweeteners. The number of American jobs generated, directly and indirectly, by the growing and processing of U.S. corn for sweetener has been estimated at 247,715.

U.S. consumers now benefit from access to U.S. corn sweeteners, the most inexpensively produced nutritive sweetener in the world, for more than half their sweetener needs.

TRADE POSITION

The U.S. sugar import system is fully in compliance with all the United States' international trade commitments.

The U.S. far exceeded its Uruguay Round Agreement (URA) commitment in the GATT. The URA required imports of at least 3-5 percent of domestic consumption; the United States bound its import quota at several times that, about 10-15 percent of consumption, and in some years has imported more than 20 percent of its consumption. Meanwhile, many major sugar-producing or consuming countries were required to make no changes in the URA, and many other foreign countries have yet to even minimally comply with their URA commitments.

The United States has complied fully with its NAFTA commitments, though Mexico has reneged on its commitments regarding both corn sweeteners and sugar.

ENVIRONMENT

American growers and processors of sugar produce sugar in full compliance with the world's highest environmental standards. The Florida sugar industry is participating in an Everglades restoration project that has been approved by the state and Federal Governments, and sugar producers are way ahead of schedule in their water-runoff commitments.

The closure of the sugar industries of Florida and the rest of the United States, which would be the inevitable result of legislation proposed by Congressman Miller, would shift sugar production from the United States—the country with the highest environmental standards—to the developing countries which dominate global sugar production, but have little or no environmental standards and enforcement. The global environment certainly would not benefit if we had to clear more Brazilian rain forests in order replace sugar grown in Florida and Minnesota.

H.R. 1060: THE DISTORTING SUBSIDIES LIMITATION ACT

H.R. 1060, the Distorting Subsidies Limitation Act, introduced by Rep. David Minge (MN) is a comprehensive legislative initiative which attempts to curb the use of economic subsidies by state and local governments to lure or retain new or existing businesses.

For several years, governmental entities have engaged in the use of targeted subsidies which include grants, below market loans or rent, and tax deferrals, aimed at a particular private business entity in an attempt to entice a business to a particular municipality. Because of these "distorted subsidies" state and local governments are being forced to compete against one another using scarce tax dollars that would otherwise be used for essential public goods and services such as schools, police and fire protection and road improvements.

When state and local competition takes the form of preferential treatment for a specific business, it interferes with interstate commerce, distorts the allocation of resources, and leaves states to provide too few public goods and services. Nationally, one notorious example is the 1993 agreement between the state of Alabama and Mercedes Benz. Mercedes received a sweetheart subsidy package worth $253 million to build an auto plant. Each of the 1500 jobs created cost the taxpayers nearly $168,000 per job.

In March, 1999, Rep. Minge introduced HR 1060 which requires businesses benefitting from special grants or tax deferrals to be taxed on the value of the subsidies at the same rates as currently apply to other income under the Federal corporate tax structure. The legislation would also impact the use of public funds for building

sports stadiums. The proposed tax should be viewed as a "sin tax" meant to stop an undesirable activity. The less tax collected, the better. The goal is to stop the practice of corporations wheedling special deals from local governments and to encourage economic competition among states based on factors such as quality of services, reasonable and efficient regulatory policies and fair tax structures.

DESCRIPTION OF HR 1060, THE DISTORTING SUBSIDIES LIMITATION ACT

TAXABILITY OF SUBSIDIES

H.R. 1060 creates a Federal excise tax on businesses benefitting from special targeted economic subsidies. If a business accepts the economic subsidy offered by the state or local government, the subsidy will be subject to the excise tax which will be computed on the aggregate value of the subsidy for calendar year in which it was received. The rate of the tax will be the same that applies in determining the regular income tax of a corporation. The rates are as follows:

Aggregate Total of Subsidy	Tax Rate
Less than $50,000	15%
$50,001–$75,000	25%
$75,000–$10,000,000	34%
Above $10,000,000	35%

The excise tax does not apply if the subsidy is part of the long-term taxing and spending policies of the governmental unit or if the subsidy is available to all business entities.

DEFINITION OF "DISTORTED SUBSIDY"

The economic subsidies subject to the excise tax include:

- Any grant;
- Any contribution of property or services;
- Any right to use property or services;
- Any loan made available to a business at rates below those commercially available to taxpayers;
- Any tax deferrals or payment of any tax or fee;
- Any guarantee of any payment of any loan or lease;
- Any reduction for fees or other charges for the use of governmental facilities such as roads, sewage treatment facilities, and solid waste disposal facilities.

There will be no excise tax rendered on the value of an economic subsidy which is provided for employee training or other educational programs. The legislation shall apply to any economic subsidy provided to a business 30 days after the date that this bill is enacted.

TAX EXEMPT BOND FINANCING

H.R. 1060 also denies the exemption from tax for interest on bonds providing targeted state or local government development subsidies for a specific business entity. The legislation shall apply to bond obligations issued after the enactment of this bill.

FEDERAL FUNDING

H.R. 1060 prohibits the use of Federal funds by a state or local governmental unit for any targeted subsidies. If it is determined that Federal funds have been used for targeted subsidies, the bill provides for recovery of those funds from the governmental unit or the business entity.

H.R. 1060 is not intended to deny the use of Federal program dollars for economic development if the Federal program dollars are available to all businesses or are used for an established Federal economic development program such as an enterprise zone.

The legislation shall apply to Federal funds provided after the enactment of this bill.

ECONOMIC INCENTIVES BY STATE AND LOCAL GOVERNMENTS

High profile examples include:

- 1978: Volkswagen, Pennsylvania, $70 million, 1,500 jobs—Has gone out of business
- 1986: Sears, Illinois: $240 million, 6,000 jobs, cost $40,000 per job.
- 1988: Toyota, Kentucky, $150 million, 3,000 jobs, $50,000 each job.
- 1988: Diamond Star (Chrysler Mitsubishi), Illinois, $118 million, 2,900 jobs, $40,000 each job.

- 1990: General Motors-Saturn, Tennessee, $70 million, 3,000 jobs, $23,000 each job.
- 1992: United Airlines, Indiana, $290 million, 6,000 jobs, $48,000 each job.
- 1992: BMW, South Carolina, $150 million, 1,500 jobs, $100,000 each job.
- 1993: Mercedes, Alabama, $250 million, 1,500 jobs, $165,000 each job.
- 1994: Dofasco/Co-Steel, Kentucky, $140 million, 400 jobs, $350,000 each job.

Mr. CHAMBLISS [presiding]. Thank you, David, and I am just sorry you weren't here for our little sugar debate earlier. I would have had some help.

Mr. MINGE. It sounds like it was a sweet discussion.

Mr. CHAMBLISS. Mr. Shamansky, welcome to the Budget Committee, and we look forward to hearing from you.

STATEMENT OF THE HON. ROBERT SHAMANSKY, A FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. SHAMANSKY. Thank you, Mr. Chairman. I want to thank all the members of the committee and especially Chairman Kasich for the invitation to appear here today, but I will digress only to this extent right now and say that I am against legislative term limits, and the reason I say that, I cite myself as an example of why you don't need legislative term limits for Members of the House of Representatives because Mr. Kasich succeeded me from the 12th District. So I think that is pretty good proof you don't need legislative term limits.

Approximately 80 million people invested their money in securities, both stocks and bonds, issued by businesses, which have made our market economy the most envied in the world. Those 80 million people include most likely a majority of the members of this committee, as well as a majority of the other people in this room. In fact, for the first time in history, the American people have more money invested in securities and other financial items than they do in their homes.

Businesses have a choice of raising money within one State, such as Ohio, in which case they would register with the Division of Securities of the Ohio Department of Commerce. However, if those businesses want to raise large sums of money across the entire country, through our various stock exchanges, they must register voluntarily with the United States Securities and Exchange Commission, the SEC. These national markets regulated by the SEC have trillions of dollars invested through them.

One of the main reasons why Americans have invested in the securities markets is because the securities and exchange legislation passed in the 1930's has assured them that they would be treated fairly by the securities markets which come under Federal regulation. For example, such cases as *Greater Iowa Corporation v. McLeldon* are cited as holding that securities and exchange legislation has broad remedial purposes for the protection of the investing public and should be liberally and flexibly construed.

This committee this day is performing one of the most important but too often unappreciated of its functions, which is that of investigation and oversight. Without this function would we have had the reforms of the abuses uncovered at the Internal Revenue Service? It is quite clear that the answer to that is a clear no.

I became aware of some very unfair and indefensible practices by the securities industry the hard way. My aunt died in 1985, and

I and a trust created by my late mother, my aunt's sister, were the beneficiaries of my aunt's estate. In the beginning of 1988, when I was gathering the Forms 1099 for the dividends from the stock I had inherited from my aunt, I discovered that I did not have a Form 1099 for the year 1987 for the most valuable stock I had inherited from her.

When I contacted the transfer agent in New York I was told that I had not been sent a Form 1099 for the year 1987 because I had not received any dividends in 1987. The reason I had not received any dividends, they told me, was because dividend checks sent to me in 1986 had been returned to the transfer agent because they could not be delivered to the address the transfer agent was using. When a check like that was returned, no further dividends were mailed thereafter.

I asked why they had not looked me up in the phone book because I had been at the same address since 1966. They said they never look up anybody in the phone book. I had to look them up.

I asked, well, what if I had been made ill by a stroke and could not look anybody up. They said I still had to look them up.

I asked, what if I were dead, and they said I still had to look them up.

I asked, what if someone in your shop had been negligent in preparing my address. They said I still had to look them up.

I pointed out that I was a lawyer and that they had just invented a new principle of American law, that is, they were negligent; I suffered because I did not receive any money nor the interest earned on my money; and they benefited from their negligence because they were using my money as an interest free loan; that is, they would turn over my principal but not the money earned by my money.

They said I still had to look them up.

I then noted that they had accumulated over $500 of my dividends over a period of four quarters and that over those four quarters or 1 year they could not find me. They agreed that they could not find me during that year.

I asked them how long it would have taken them, a bank transfer agent, to look me up if I had owed them the $500?

I have yet to receive an answer to that question. The answer of course is that it would have taken less than a minute and cost them less than one dollar to check me electronically in a database.

You must understand what happened in that case. They only sent notices to any—on any check that had been returned to them. Now, clearly the address on the check that had been returned to them was no good, so they made a point thereafter only to send notices to the addresses that were already proven bad. That is guaranteed not to find anybody.

In August 1992 I brought the subject of the unfair treatment of so-called lost security holders to the attention of my congressional classmate, now Senator Ron Wyden, who instantly grasped the significance of my disturbing experience. Ron, as chairman of a Subcommittee of the Committee on Small Business, wrote to Richard Breeden, then chairman of the SEC, twice that year. On February 22 of 1993, Chairman Breeden wrote Ron back in part as follows, "although the absolute value of undeliverable accounts, about $10

billion according to the division's, that is the Division of Market Regulation, estimate is substantial, this is only one-tenth of 1 percent of the approximate $10 trillion capitalization of U.S. Equity and debt markets." In other words, $10 billion not belonging to them was just not enough to bother about.

Based on the enclosed exhibits, and Mr. Chairman, I would ask you to make as part of the record the items——

Chairman KASICH. Without objection.

Mr. SHAMANSKY. Thank you, Mr. Chairman. Based on the enclosed exhibits and my direct experience with the Division of Market Regulation at the SEC, former Chairman Breeden's peremptory dismissal of the $10 billion in undeliverable accounts is a fair characterization of the culture or attitude of the Division of Market Regulation and the SEC itself toward millions of security holders who are owed billions of dollars of their own money. Understand this. This is not government money at any level. This is not any corporation's money, but this is the money belonging to you and me, the individual investor, and our market economy is dependent on encouraging individuals to put their money in the markets.

In its October 7, 1997, release of the revised rules 17Ad.17, et cetera, the SEC said it had first estimated that there were 250 thousand lost security holders but that it later estimated that there were three million lost security holders, owed possibly more than $450 million. It is only fair to point out that the SEC was off by a factor of 12 between its first and last estimates of the number of lost security holders. Among those experts in this field that I am familiar with, most believe that the most recent estimate of about $450 million is too low, also, and I mention the disparity as a fair gauge of the expertise residing in the Division of Market Regulation at the SEC.

Please understand that we are not talking about any money belonging to any government at any level nor to any money belonging to any corporation. We are talking about uniting owners of securities with their dividends and interests rightfully earned by their securities for which they paid their hard earned money.

On July 28, 1993, the subcommittee staff presented to Chairman Wyden, as you know now Senator Wyden, a report entitled, "Return to Sender Tens of Thousands of Undeliverable Dividend Payments in Limbo." "Individual Investors Lose Billions of Dollars of Shareholder Assets Because of Lax Transfer Rules, Indifferences by Public Companies and Government Regulators."

In addition to working with Senator Wyden and his staffs, I have been invited to speak before three annual meetings of the National Association of Unclaimed Property Administrators, otherwise known as NAUPA, and a national meeting of the Securities Transfer Association on the subject of lost security holders.

Every State in the Union and the District of Columbia have unclaimed property laws which require holders of other people's money to turn over to the respective states, after periods of from 3 to 7 years, the money being held. The States have been doing this for decades, and they have all used public records, published originally in newspapers and at county and State fairs, and that are now published by a majority of states on the Internet. These states have been doing this without any security or privacy problems. It

is important to repeat that. They don't have any privacy or security problems, and they have been doing it for decades. Likewise, corporations have procedures to check claimants for undelivered dividends and interest, and these procedures work very well. In other words, there are no privacy or security problems except in the minds of those who do not want the lost security owners to obtain their own money.

The advent of the computer and the Internet has completely changed the way securities and their owners can be kept track of. We are no longer in the days of three by five cards shuffled by hand. As a surgeon should be held liable for negligence today, if he operated to repair a bone fracture without first using a readily available X-ray machine, so should those who transfer securities today if they refuse to use readily available databases, especially where that refusal benefits others than the owners of the securities.

There are three very big credit rating agencies, companies which keep tab on almost every person in the United States who ever got credit or has made investments. When it comes to those who own stocks and bonds, their databases can find up to 80 percent or those sought, starting with either a name, an address or a Social Security number, which is on, I believe, every driver's license issued in the United States as required by Federal law.

People who own stocks and bonds are not trying to hide from their own money. Almost without exception owners of stocks send in their Social Security numbers on a form W-9 to transfer agents so the transfer agents will not withhold 20 percent of the dividends for the IRS.

People want to get their money, and the 50 States and the District of Columbia have demonstrated conclusively that there are no legal, ethical or other policy considerations such as privacy or security which prevent delivery to owners of securities the dividends and interest earned by their securities.

It was my lot to bring to the attention of the SEC through Senator Wyden that the SEC was not assuring investors that they would have their dividends and interest delivered to them promptly, or at all, by the use of good databases.

Under the SEC's existing regulations, specifying "certificate detail," that is, they had to maintain "the address of the registered security holder," the SEC had and has the authority of providing for the following common-sense, nonrocket science practices which were suggested to it by me as an investor in correspondence and/or during various meetings at the SEC.

First, beside transfer agents, the regulations regarding lost security holders should apply to broker-dealers, corporate trustees, personal and institutional custodians and mutual funds, and issuers which do their own transfer work, because transfer agents maintain records for only approximately one-half of the security holders in the United States. The SEC in 1996 proposed changes to include recordkeeping broker-dealers, but then reversed itself in 1997, saying that changes only applied to recordkeeping transfer agents.

Second, regulations, which apply to security holders lost on or after December 8, 1997, should apply equally to all security holders who had been lost before December 8, 1997. Here again, the SEC,

especially the Division of Market Regulation, I will use a strong word, betrayed the shareholder because they then exposed the shareholder to the practices of the so-called heir-finders (they are called searchers or locators, or if you ask people who work for the States in the area of unclaimed property, some of them refer to these nice folks as either vampires, blood suckers or other nice things like that), because these are the people who will send you a letter and say, I know where $10,000 belongs to you and for from 25 percent to 50 percent, I will tell you where it is. And the States have tried to regulate this and it doesn't work.

What happened then is that the SEC—and there is nothing in the regulation they adopted which could possibly justify this interpretation—the SEC on its own said if you were one of those unfortunate three million who were lost before December 8, 1997, you are still subject to that kind of treatment from these locators.

Third, the lost security holder regulations should apply to security holders who meet the $25 de minimis test adopted by the SEC in 1997, if their checks remain uncashed for 7 months. The next regularly sent dividend and interest checks should inform the payee that a previously sent check had not been cashed and that the notice should request a call to a toll free number or other communication.

There is sound precedent from the Prudential Insurance Company for notices like this, and I have conferred with the president of the First Chicago Trust Company of New York, one of the biggest of the transfer agents, and he agreed with his staff that it would cost it virtually nothing to make this change because the letters are being sent, all the papers are being sent, the postage being paid. It just says on the next regularly sent dividend payment, please cash your check. Matter of fact, just yesterday I picked up from my aunt, who is almost 94, a letter from Morgan Stanley Dean Witter asking about a check sent to her last December that wasn't cashed. There is no reason that this should not be uniform.

Fourth, all of the data on lost security holders generated by transfer agents, broker-dealers, et al., should be sent to the SEC for a listing on one Internet web site. A majority of states already put their unclaimed property lists on the Internet, and NAUPA has a web site where it is pooling the various State lists. NAUPA, that is the State group, created the web site because the SEC had proposed in 1996 such a web site for itself, only to reverse itself after it had been lobbied hard by those who did not want the lost security owners found. Prominent among those were the so-called heir finders or locators, depending on who is describing them.

The SEC already has the Thompson Financial Network operate the SEC's lost and stolen securities program under the name of Securities Information Center, SIC. If the SEC has a web site for its list of stolen or lost pieces of paper, why can it not have a web site for its lists of lost owners of the securities? Why should a piece of paper be treated better than the owners of the pieces of paper?

It must be pointed out that the United States Government and the world Jewish community shamed the Swiss Bankers Association into publishing on an Internet site a list of unclaimed Holocaust era accounts which the Swiss Bankers Association had previously maintained had been lost or destroyed. I checked this web

site from my office in Columbus for the name Klein, K-L-E-I-N, and I came up with three hits. That is from Columbus. There is no reason why the few big American banks which control the biggest transfer agents, and it is really a sideline for them, do not do what the Swiss show can easily be done, that is, put on the Internet the SEC list of lost security holders, which is what the States are already doing with their unclaimed property lists, and which the SEC actually proposed in 1996.

Based on my experience over these last 11 years, I believe that there is sufficient interest in the private sector to distribute the information on the Internet at no cost to the SEC, once the information has been delivered electronically to the SEC. There is of course no reason to publish on the Internet the amount owed to lost security holders nor the quantity of securities owned by the lost security holder. All that is needed is the simple fact that John Q. Public is owed something by the XYZ corporation.

I want at this moment to just quote from the Federal Register of October 7, 1997, from Page 52233 as follows. Now this is where the SEC reversed itself on having the same kind of an Internet site that a majority of the States have. ''Most commenters were opposed to the creation of a lost security holders database.'' I am sure they were because the people who didn't want the people to get their money would oppose it.

''Many commenters believe that the database would result in a loss of privacy for security holders.'' Well, the States have been doing this for 40 years or more, and how else would they know they were on the list if it weren't published somewhere?

Continuing. ''Other commenters suggested that the data base would result in fraudulent claims.''

My observation on that is there are no such privacy or security problems because the States have been doing it for 40 years, and there are no such problems.

And this is my favorite of all. ''Finally, some commenters opined—obviously a lawyer wrote that—that the database would be of limited utility because it would require that security holders take the initiative to discover whether they had unclaimed assets.''

Members of the committee, I have no idea what that means. I have read it a hundred times. That has to be one of the dumbest statements I have ever heard. It must mean that you might look yourself up on a list, but that is forever. Now, there is only one thing dumber than that statement, and that is the fact that the people of the SEC thought that it had some kind of relevance. It makes no sense to say that, and yet I think this is as good a clue of the problem that the investor has with what the SEC has done.

Fifth, money due lost security holders as redefined here, which is held by any of the holders as redefined here, must hold that money in trust accounts, so that the security holder will get the interest earned by his or her dividends and interest instead of becoming a reward to those holding the undelivered dividends or interest. In other words, we have got to stop rewarding people for not doing their jobs and giving over the money to the owners.

The case of *Delaware v. New York* is where New York and Delaware fought over approximately $1 billion in dividends and their underlying stock generated in street name accounts owned by lost

security holders who used the major broker-dealers headquartered in New York City. Investors who leave their securities in street name with their broker-dealer can be as easily lost as any other name on any other list.

Another important reason for requiring that the security holders' money be held in trust accounts can be gleaned from the $63.5 million in fines in addition to a return of $19.1 million illegally taken by Bankers Trust Corporation of New York in early 1994. This over $19 million was taken from unclaimed property due to lost customers of the bank, and it was illegally used to fraudulently increase the profits of the bank instead of sending that money to the States as required.

There is a long list of cases that says when a corporation issues a dividend that dividend should be held in a constructive trust for the shareholder, so that when he shows up he not only gets his principal but he gets the interest earned by his principal. We have got to stop rewarding the person who keeps that money away from the shareholder, and the easy way to do that is follow this line of cases and say the interest follows the principal.

Sixth, if a locator or finder, those other people I mentioned earlier, is engaged by any transfer agent to locate lost security holders at a cost to the lost security holders after the obligatory two database checks, those lost security holder accounts should be placed with locator or heir finders only on the basis of open bidding by locator/heir finders for batches of such accounts, each account in each batch to receive due diligence. In fact, the National Association of Unclaimed Property Administrators has urged the SEC to protect lost security holders from the excessive charges, that is, from 25 percent to 50 percent, of heir finders or locators. Again, the SEC never mentioned in its release how much these locators/heir finders charge. It took State Street Bank and Trust in a critique of the rule to expose this 25 percent to 50 percent charge.

Seventh, the United States of America through its many arms and agencies holds great sums of money due others. The United States Money Return Commission should be created to locate all of this money owed to others. The U.S. Government should put the information on one Internet web site, and then the commission should simplify the method whereby any claimant can obtain his or her money wherever it may be in the United States Government. There is simply no reason for the U.S. Government not to use currently available technology to unite people with their money now held by the U.S. Government. The same principle applies to the securities industry.

There is a list among the exhibits of the many different agencies which have web sites, but you have to seek them out, and they are all different.

Not one State law is changed by any of these suggestions. These regulations only affect those who come within the clear jurisdiction of the Securities and Exchange Commission. NAUPA has encouraged the SEC to unite lost security holders with their money years before the money becomes unclaimed property due for delivery to the States. The elected State officials know that it is the intent of the State laws on unclaimed property to have their respective citizens get the money that is due them. It simply makes no sense to

those elected State officials to force their lost security holder citizens into giving interest free loans to those who are holding money belonging to the lost security holders who are residents of their respective states.

Thank you, Mr. Chairman, for this opportunity.

[The prepared statement of Mr. Shamansky follows:]

PREPARED STATEMENT OF HON. ROBERT SHAMANSKY, A FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Approximately 80 million people have invested their money in securities—both stocks and bonds—issued by businesses, which have made our market economy the most envied in the world. Those 80 million include—most likely—a majority of the members of this Committee as well as a majority of the other people in this room. In fact, for the first time in history, the American people have more money invested in securities and other financial items than they do in their homes.

Businesses have a choice of raising money within one state, such as Ohio, in which case they would register with the Division of Securities of the Ohio Department of Commerce. However, if those businesses want to raise large sums of money across the entire country through our various stock exchanges, they must register with the United States Securities and Exchange Commission (SEC). These national markets regulated by the SEC have trillions of dollars invested through them.

One of the main reasons why Americans have invested in the securities markets is because the securities and exchange legislation passed in the 1930's has assured them that they would be treated fairly by the securities markets, which come under Federal regulation. For example, cases such as *Greater Iowa Corp. v. McLeldon,* (CA Iowa 1967, 378F2d.783), are cited as holding that securities and exchange legislation has broad remedial purposes for the protection of the investing public and should be liberally construed.

This Committee this day is performing one of the most important, but too often unappreciated of its functions, which is that of Investigation and Oversight. Without this function by the Congress, would we have had the reforms of the abuses uncovered at the Internal Revenue Service? It is quite clear that the answer to that question is a clear "No!"

I became aware of some very unfair and indefensible practices by the securities industry the hard way. My aunt died in 1985, and I and a trust created by my late mother, my aunt's sister, were the beneficiaries of my aunt's estate. In the beginning of 1988, when I was gathering the Forms 1099 for the dividends from the stock I had inherited from my aunt, I discovered that I did not have a Form 1099 for the year 1987 for the most valuable stock I had inherited from her.

When I contacted the transfer agent in New York, I was told that I had not been sent a Form 1099 for the year 1987, because I had not received any dividends in 1987! The reason I hadn't received any dividends was because dividend checks sent to me in 1986 had been returned to the transfer agent, because they could not be delivered to the address the transfer agent was using. When a check like that was returned, no further dividend checks were mailed thereafter.

I asked why they had not looked me up in the phone book, because I had been at the same business address since 1966. They said they never look anybody up in the phone book. I had to look them up.

I asked: "What if I had been made ill by a stroke and could not look anyone up?" They said I still had to look them up.

I asked, "What if I were dead?;" and they said I still had to look them up!

I asked, "What if someone in your shop had been negligent in preparing my address?" They said I still had to look them up.

I pointed out that I was a lawyer and that they had just invented a new principle of American law, i.e., they were negligent; I suffered, because I did not receive my money nor the interest earned by my money; and they benefited from their negligence, because they were using my money as an interest-free loan, i.e., they would turn over my principal but not the money earned by my money.

They said I still had to look them up.

I then noted that they had accumulated over $500.00 of my dividends over a period of four quarters, and that over those four quarters or 1 year they could not find me. They agreed that they could not find me during that year.

I then asked them how long it would have taken that bank/transfer agent to look me up if I had owed them the $500.00?

I have yet to receive an answer to that question. (The answer is, of course, it would have taken them less than a minute at a cost of less than $1.00 to check me electronically on a database.)

In August, 1992 I brought the subject of the unfair treatment of so-called "lost securityholders" to the attention of my Congressional classmate, now Senator Ron Wyden, who instantly grasped the significance of my disturbing experience. Ron, as Chairman of a Subcommittee of the Committee on Small Business, wrote to Richard C. Breeden, then Chairman of the SEC on August 20 and August 13, 1992. On February 22, 1993, SEC Chairman Breeden wrote Ron back in part as follows, "* * * although the absolute value of undeliverable accounts, about $10 billion according to the Division's (Division of Market Regulation) estimate, is substantial, this is only about one-tenth of 1 percent of the approximate $10 trillion capitalization of U.S. equity and debt markets."

Based on the enclosed exhibits and my direct experience with the Division of Market Regulation at the SEC, former Chairman Breeden's peremptory dismissal of the $10 billion dollars in undeliverable accounts is a fair characterization of the culture or attitude of the Division of Market Regulation and the SEC itself toward millions of securityholders who are owed billions of dollars of their own money!

In its October 7, 1997 Release of the revised Rule 17Ad.17., the SEC said it had at first estimated that there were 250,000 lost securityholders, but that it later estimated that there were 3,000,000 lost securityholders owed possibly more than $450 million. It is only fair to point out that the SEC was off by a factor of twelve (12) between its first and last estimates of the number of lost securityholders. Among those experts in this field that I am familiar with, most believe that the most recent estimate of about $450 million is too low, also.

Please understand that we are not talking about any money belonging to any government at any level, nor to any money belonging to any corporation. We are talking about uniting owners of securities with their dividends and interest rightfully earned by their securities for which they paid their hard-earned money.

On July 28, 1993 the Sub-Committee staff presented to Chairman Wyden a report entitled: "Return to Sender," tens of thousands of "undeliverable" dividend payments in limbo. Individual investors lose billions of dollars of shareholder assets because of lax transfer rules. Indifference by public companies and government regulators.

A Pay Day for Public Companies and States?

In addition to working with Senator Wyden and his staffs, I have been invited to speak before three annual meetings of the National Association of Unclaimed Property Administrators (NAUPA) and a national meeting of the Security Transfer Association (STA) on the subject of lost securityholders.

Every state in the Union and the District of Columbia have unclaimed property laws, which require holders of other peoples' money to turn over to the respective states—after periods of from 3 to 7 years—the money being held. The states have been doing this for decades, and they have all used public records published originally in newspapers and at county and state fairs and that are now published by a majority of states on the Internet. These states have been doing this without either security or privacy problems. Likewise, corporations have procedures to check claimants for undelivered dividends and interest, and these procedures work very well. In other words, there are no privacy or security problems, except in the minds of those who do not want the lost security owners to obtain their own money.

The advent of the computer and the Internet has completely changed the way securities and their owners can be kept track of. We are no longer in the days of "3 x 5" cards shuffled by hand. As a surgeon should be held liable for negligence today, if he operated to repair a bone fracture without first using a readily available x-ray machine, so should those who transfer securities today, if they refuse to use readily available databases, especially where that refusal benefits others than the owners of the securities.

There are three very big credit rating companies which keep tab on almost every person in the United States who ever got credit or has made investments. When it comes to those who own stocks and bonds, their databases can find up to 80 percent or more of those sought, starting with either a name, an address, or a Social Security number, which is on, I believe, every driver's license issued in the United States as required by the Federal law.

People who own stocks and bonds are not trying to hide from their own money. Almost without exception owners of stocks send in their Social Security numbers on a Form W-9 to transfer agents so that the transfer agents will not withhold twenty percent (20 percent) of the dividends for the IRS.

People want to get their money, and the fifty states and the District of Columbia have demonstrated conclusively that there are no legal, ethical, or other policy considerations such as privacy or security, which prevent delivery to owners of securities the dividends and interest earned by their securities.

It was my lot to bring to the attention of the SEC through Senator Wyden that the SEC was not assuring investors that they would have their dividends and interest delivered to them promptly—or at all—by the use of good addresses.

Under the SEC's existing Regulation 17 CFR Part 240. Rule 17Ad-10. specifying "Certificate detail," e.g., "(4) the address of the registered securityholder," the SEC had and has the authority of providing for the following common sense, non-rocket science practices, which were suggested to it by me as an investor in correspondence and/or during various meetings at the SEC:

1. Beside transfer agents, the regulations regarding lost securityholders should apply to broker-dealers, corporate trustees, personal and institutional custodians and mutual funds, and issuers which do their own transfer work, because transfer agents maintain records for only approximately one-half (1/2) of the securityholders in the United States. The SEC in 1996 proposed changes to include recordkeeping broker-dealers, but then reversed itself in 1997, saying that changes only applied to recordkeeping transfer agents.

2. Regulations, which apply to securityholders lost on or after December 8, 1997 should apply equally to all securityholders who had been lost before December 8, 1977.

3. The lost securityholder regulations should apply to securityholders who meet the $25.00 de minimis test adopted by the SEC in 1997, if their checks remain uncashed for 7 months. The next regularly-sent dividend and interest checks should inform the payee that a previously sent check had not been cashed, and the notice should request a call to a toll-free number or other communication. There is sound precedent from Prudential Insurance for notices like this, and I have conferred with one of the most prominent transfer agents that this can be easily done through their computers at insignificant cost.

4. All of the data on lost securityholders generated by transfer agents, broker/dealers et al., should be sent to the SEC for listing on one Internet website. A majority of states already put their unclaimed property lists on the Internet, and NAUPA has a website where it is pooling various state lists. NAUPA created the website, because the SEC proposed such a website for itself in a 1996 release, only to reverse itself after it had been lobbied hard by those who did not want the lost securityholders found. Prominent among those were "heir finders" or locators (or vampires) depending on who is describing them. The SEC already has the Thomson Financial Network operate the SEC's Lost and Stolen Securities Program under the name of Securities Information Center (SIC). If the SEC has a website for its list of lost or stolen pieces of paper, why can it not have a website for its list of the lost owners of securities? Why should a piece of paper be treated better than the owner of a piece of paper?

It must be pointed out that the United States Government and the world Jewish community shamed the Swiss Bankers Association into publishing on an Internet website a list of unclaimed Holocaust era accounts, which the Swiss Bankers Association had previously maintained had been lost or destroyed. (I checked this website from my office in Columbus for the name "Klein," and I came up with three hits!) There is no reason why the few big American banks, which control the biggest transfer agents, do not do what the Swiss show can easily be done, i.e., put on the Internet the SEC list of lost securityholders, which is what the states are already doing with their unclaimed property owners lists.

Based on my experience over these last 11 years, I believe that there is sufficient interest in the private sector to distribute the information on the Internet at no cost to the SEC once the information has been delivered electronically to the SEC. There is, of course, no reason to publish on the Internet the amount owed the lost securityholders nor the quantity of securities owned by the lost securityholder. All that is needed is the simple fact that John Q. Public is owed something by XYZ Corporation.

5. Money due lost securityholders as redefined here, which is held by any of the holders as redefined here, must hold that money in trust accounts, so that the securityholder will get the interest earned by his or her dividends and interest instead of becoming a reward to those holding the undelivered dividends or interest.

The case of Delaware v. New York, 507 U.S. 490, 113 S. Ct. 1550 (1992), is where New York and Delaware fought over the approximately $1 billion in dividends and their underlying stock generated in "street name" accounts owned by "lost" securityholders, who used the major broker-dealers headquartered in New York

City. (Investors who leave their securities in "street name" with a broker-dealer can be as easily lost as any other name on any other list.)

Another important reason for requiring that securityholders' money be held in trust accounts can be gleaned from the $63.5 million in fines in addition to the return of $19.1 million illegally taken by Bankers Trust Corporation of New York in early 1994. This $19.1 million was taken from unclaimed property due to lost customers of the bank, and it was illegally used to falsely increase the profits of the bank, instead of sending that money to the states as required.

6. If a locator/heir finder is engaged by any transfer agent, et al., to locate lost securityholders at a cost to the lost securityholder after the obligatory two database checks, those lost securityholder accounts should be placed with locator/heir finders only on the basis of open bidding by locator/heir finders for batches of such accounts, each account in each batch to receive due diligence. In fact the National Association of Unclaimed Property Administrators has urged the SEC to protect lost securityholders from the excessive charges (from 25 percent to 50 percent) of heir finders or locators.

7. The United States of America through its many arms and agencies holds great sums of money due others. The United States Money Return Commission should be created to locate all of this money owed to others; the U.S. government should put the information on one Internet website; and then the Commission should simplify the method whereby any claimant can obtain his or her money wherever it may be in the United States government. There is simply no reason for the U.S. government not to use currently available technology to unite people with their money now held by the U.S. government. The same principle applies to the securities industry.

Not one state law is changed by any of the above. These regulations only affect those who come within the clear jurisdiction of the Securities and Exchange Commission. NAUPA has encouraged the SEC to unite lost securityholders with their money years before the money becomes "unclaimed property" due for delivery to the states. The elected state officials know that it is the intent of the state laws on unclaimed property to have their respective citizens get the money that is due them; it simply makes no sense to those elected state officials to force their lost securityholders citizens into giving interest free loans to those who are holding money belonging to the lost securityholders, who are residents of their respective states.

Chairman KASICH. The gentleman from Pennsylvania is recognized.

STATEMENT OF THE HON. JOSEPH M. HOEFFEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. HOEFFEL. Thank you, Mr. Chairman. I would like to read part of my testimony that is marked "Amended 10 a.m., 6/30/99." Mr. Chairman, thank you for the opportunity to appear before the committee to speak about corporate welfare and the need to reform the unending flow of taxpayer funds into corporate pocketbooks.

As a matter of simple fairness, corporate interests must be required by Congress to share in budget discipline. We must no longer support programs and subsidies that waste our resources and tax dollars, hurt the environment and discourage and hinder competition in the private sector.

It is time for Congress to acknowledge that Federal subsidies, including tax advantages, which may have been enacted for a valid purpose for a specific industry, can become obsolete, anticompetitive or no longer in the public interest, and it is unfair to require the U.S. Taxpayer to support such unnecessary spending or tax breaks that do not provide a substantial public benefit.

Further, since no public body has systematically evaluated these Federal subsidies, it is time for Congress to create a commission to review such unfair corporate welfare payments and to advise Congress on reform or elimination of such payments.

Now, Mr. Chairman, just because Congress hasn't reviewed the corporate welfare situation, it doesn't mean others have not reviewed, and I have with me a pile of reports, really a partial pile of studies, that many groups have made of corporate welfare. Many of these groups will be testifying later this afternoon. We have determined what the problem is. Not everybody agrees on specific matters that need to be changed, but there have been lots of studies about the evils of corporate welfare, but Congress has not yet figured out a way to deal with it.

There are many examples of the problem, Mr. Chairman. The Center for Policy Attitudes released a poll saying only 19 percent of the respondents feel that government is run for the benefit of all the people, while 75 percent of the American people think government's run for the benefit of a few big interests.

The Citizens Against Government Waste was highly critical of last year's budget bill, determining that that bill enacted 2,838 pork barrel projects, totalling $12 billion, into law.

The Congressional Joint Committee on Taxation reviewed the 1998 budget and said it contained 79 new tax provisions, each of them benefiting fewer than 100 American taxpayers.

Time magazine, which Ralph Nader referred to earlier, has concluded that the costs of corporate welfare are the equivalent of nearly 2 weekly paychecks from every working man and woman in this country, and they further estimated in that Time series that the Federal Government pays out annually $125 billion in corporate welfare, equivalent to the annual income tax paid by 60 million of our fellow taxpayers.

Clearly, clearly we have to act. I am proposing that we pass into law the Corporate Welfare Reform Commission Act to establish a congressional advisory commission to examine and recommend to the Congress after careful review a list of Federally supported programs which have outlived their initial purposes or that fail to provide a substantial public benefit.

We seem to know where we want to go on this issue. We have got all of these reports that we could ever possibly want to evaluate, but we don't know how to get there. We are missing a means to implement reform responsibly and quickly.

My legislation will provide such a mechanism. The legislation would provide for the establishment of a five member independent nonpartisan commission with all of the membership appointed by Congress. The commission would identify unfair Federal subsidies to profit making industries, tax preferences and below market rate fees and recommend reform of those provisions to the Congress under a rigid timetable for reform or termination.

Generally excluded from this review would be Federal programs primarily designed for public health and safety, for education and for the environment.

The timetable suggested in my legislation would require the commission to submit to Congress no later than December 1st, 2000, a report containing the commission's findings and its recommendations. Congressional leaders shall promptly then introduce implementing legislation and the committees would have 120 calendar days from the day of referral to report the bills or the bills shall

be discharged and promptly placed on the legislative calendars of both Houses.

The debate shall be limited. Amendments would be in order during legislative deliberations.

Mr. Chairman, legislation on corporate welfare reform was introduced in the lasting Congress and hearings were held. In this Congress, we are moving forward sooner, and I compliment the Chair for pushing this matter forward and showing the courage to do so. Perhaps by taking a slightly different angle on this we can speed up the process.

We need to institutionalize our efforts and when conclusions are made by this proposed commission we need to have an expedited consideration by Congress to implement the decisions. My legislation would do that.

I ask the committee and urge the committee to quickly adopt this process to begin to restore confidence in the Congress and its commitment to guarding the public purse. Thank you very much.

[The prepared statement of Mr. Hoeffel follows:]

PREPARED STATEMENT OF HON. JOSEPH M. HOEFFEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, Mr. Spratt, I appreciate the opportunity to appear before the Committee to speak about Corporate Welfare and the need to reform the unending flow of taxpayer funds into the pockets of private corporate pocketbooks.

As a matter of simple fairness, corporate interests must be required by Congress to share in the burden of budget discipline. Further, we must no longer support programs and subsidies that waste our resources and tax dollars, hurt the environment and discourage competition in the private sector.

In a poll released on May 10th of this year by the Center for Policy Attitudes, only 19 percent of the respondents said that government is run for the benefit of "all the people" while 75 percent said that it is run for the benefit of " a few big interests."

The Congress is now in the midst of its annual appropriations work schedule. I can only hope that last year's experience has taught us a lesson. According to an analysis of the the 3,000 page Omnibus Appropriations Act and the five other Appropriations bills by the Citizens Against Government Waste, the Congress enacted into law 2,838 pork barrel projects totaling $12 billion dollars.

It is small wonder that public skepticism abounds.

Federal programs should not be turned into an accumulation of special interest provisions.

Public support for programs depends on the belief that they are for the public good.

If the trend in special interest provisions continues, public confidence in the work of the Congress will be further undermined. The Congress will be seen as returning to a policy of public spoils and not of shared sacrifice for the benefit of most Americans.

In a month-long series of articles which covered the breadth of this problem late last year, Time magazine researchers concluded that the costs of Corporate Welfare were the equivalent of nearly two weekly paychecks from every working man and woman in America.

This is truly staggering. It was further estimated in the same series of articles that the Federal Government has paid out $125 billion annually in corporate welfare, equivalent to all the income tax paid by 60 million individuals and families.

Corporate Welfare is comprised of subsidy elements of Federal spending, Federal usage fees below market rates and special tax preferences that benefit commercial industries and corporations by providing a public benefit that is less than the cost of such program to the Federal taxpayer and providing an unfair competitive advantage or financial windfall.

No effort to stanch the outflow flow of tax dollars can succeed without addressing each of these categories.

Additionally, some review should be made of special interest subsidies and tax breaks inserted into the Federal budgets without adequate public notice or review. In fact, the 1998 Balanced Budget contained 79 new tax provisions, each benefiting

fewer than 100 American taxpayers according to a Congressional Joint Committee on Taxation study.

Private organizations with divergent points of view such as the Heritage Foundation, the Progressive Policy Institute, the Cato Institute, Common Cause, Citizens Against Government Waste as well as a coalition of Friends of the Earth, Taxpayers for Common Sense and the U.S. Public Interest Research Group have, in the past, published lists which identify Federal programs which waste tax payer monies. Additionally, organizations such as Ralph Nader's Public Citizen, National Taxpayers Union and American for Tax Reform have all participated in the past by endorsing attempts to plug this drain on the budget .

This wide ranging interest is further demonstrated by the actions of both the Congressional Budget Office and the Library of Congress. In 1995, the Congressional Budget Office (CBO) published a study of Federal Financial Support of Business. Also, in 1995, the Economics Division of the Library of Congress published its own list of Federal Programs that could financially benefit Business Enterprises. In 1997, CBO once again revisited this issue. Finally, the Administration's annual budget submission carries tables of "tax expenditures" as one of the several categories of programs which this Commission should examine as it moves toward the goal of lightening the burden on the American Taxpayer.

I will introduce the Corporate Welfare Reform Commission Act of 1999, in the coming days that would establish a Congressional advisory commission to examine and recommend to the Congress, after careful review, a list of federally supported programs which have outlived their initial purposes or that exceed in tax support the benefits for the American people.

In a word, we seem to know where we want to go on this issue, what we are missing is a means to implement reform responsibly and swiftly. My legislation provides such a mechanism. This legislation would provide for the establishment of:

1. A five member, independent nonpartisan Commission with all the membership appointed by the Congress.

2. The Commission would identify unfair Federal subsidies to profit making industries, tax preferences, and below market user fees and recommend reform of these provisions to the Congress under a rigid timetable for reform or termination.

3. Generally excluded from the review would be Federal programs primarily designed for public health and safety, education and the environment. The proposal is modeled after the successful Base Realignment and Closure Commission and is designed to remove politics from the subsidy review process.

I have already taken action to make the Administration aware that this is a matter that requires a serious effort. On March 3, I wrote to Office of Management and Budget Director Jack Lew requesting that he provide me a list of government benefit programs that meet the criteria of Corporate Welfare Programs.

In his reply to me, Director Lew identified 16 separate statutory proposals in the President's Budget to close corporate tax shelters, proposals relating to methods of business accounting that overstate expenses or understate receipts in an attempt to reduce taxes due and reductions in benefits through better management of users fees. On the spending side, Director Lew pointed to the Administration's efforts to reduce lender subsidies and recapturing part of the reserves of guarantee agencies. As one Member of Congress with limited resources compared with those of the Treasury Department, it is hard to thoroughly evaluate the merit of such a broad range of programs and tax expenditures. This Commission will have resources necessary to accomplish the goal. It also has the advantage of being a single focus effort not beset by competing daily requirements which would detract from a speedy, complete review necessary for successful completion of this work.

Legislation on Corporate Welfare Reform was introduced in the last Congress. Hearings were held. This Congress we are moving forward earlier in the session. Perhaps, by taking a slightly different direction, we can speed up the process. We need to institutionalize our efforts and when conclusions are made by the Commission, we need to have expedited consideration by the Congress to implement these decisions.

My legislation would do just that.

I urge the Committee to expeditiously act to adopt this process including the timetable to begin to restore confidence in the Congress and its commitment to guarding the public purse, one of our most serious responsibilities.

Chairman KASICH. I want to thank the panel. We have another panel that will follow this. I would like to concentrate my questions—and first of all, I want to pay a very high compliment to my

friend, Mr. Shamansky, and it is pretty clear from this testimony, you have been about 11 years, Bob?

Mr. SHAMANSKY. Yeah.

Chairman KASICH. Well, why can't we get something done about this?

Mr. SHAMANSKY. I think we are now with this hearing. We have made some progress. It is really an institutional problem of at all places the SEC, and I keep referring to the division of market regulation. It is simply amazing to me. I asked a person in a position to know what goes on over there, and I said why won't they do the job that clearly has to be done and the law expects them to do, and he looked me in the eye and he said, "Bob, you are a single investor out in Columbus?" And I said, yes. And he said, "When they leave the division, are you going to give them a job?" And the answer is obviously no. I don't know any other explanation. They are simply—it is a classic case of the regulator captured by the regulated, and in this particular case, I have yet to meet a CEO that doesn't want his shareholders to get the shareholders' dividend. They all want them to.

You know John B. McCoy, and I know John B. McCoy. I am working with him to make sure that Bank One, and you know, clearly working with him on that, to make sure that the industry moves on, because all we are talking about is returning money to the—John wants his shareholders to get their money, and he wants his transfer agent to just use the technology and move on with it.

The private sector will just apply the technology. The problem is, I think, institutional at the Securities and Exchange Commission.

Chairman KASICH. Where do you think the proper point is up here for resolving this, Bob, and if we were to try to move to find somebody on a committee at jurisdiction, who could grab this thing and get this thing done, where would we go? Would that be the Banking Committee? Would it be the Commerce Committee?

Mr. SHAMANSKY. I would defer to your expertise on that, John. I don't know which one—I am sorry, I wish I were more knowledgeable on that. Clearly——

Chairman KASICH. Is Ron Wyden doing anything besides the report?

Mr. SHAMANSKY. As you know, legislative counsel is working on the different elements to present a bill and that really is to remind the SEC what its job is and the authority that it has. The only thing that they may need to be encouraged on is the idea of when dividends are declared and interest earned on bonds, say, just put it in trust accounts. None of this is rocket science. We are not taking—we are not bothering any State laws. There are no expenditures. It is just making sure that money is delivered to the rightful owners, and that is so simple. These people at the SEC can't handle that.

Chairman KASICH. Or don't want to.

Mr. SHAMANSKY. Apparently.

Chairman KASICH. Well, I think we need to make an effort. I mean, it is total—this seems to me like something that just should have been done in 11 days, not 11 years, and I think we have got to figure out how we can move all the various contacts we have to try to get this resolved.

Mr. SHAMANSKY. Mr. Chairman, this is based on my experience. This is truly a nonpartisan issue. I have yet to meet Democrat, Republican or anybody else who said a shareholder shouldn't get his dividend and a bondholder shouldn't get his interest. This is not what you are arguing. It is strengthening our market economy, and you do that by encouraging the individual to put his money in it.

Chairman KASICH. Well, just an element of fairness, too. I mean, it is just simple common sense. Gentleman from Georgia.

Mr. CHAMBLISS. I don't have any questions.

Chairman KASICH. Gentleman from Pennsylvania.

Mr. SMITH. No questions, Mr. Chairman. We have the testimony of everyone except Representative Hoeffel. Are you going to make that available?

Chairman KASICH. We have his written testimony. Bob, what we need to do is just stay on top of this and see how we can get this resolved, and to the gentleman from Pennsylvania, I am obviously very interested in your legislation, would like to have a good look at it, and I can't imagine I wouldn't be helpful on that.

To Mr. Minge, David, what have you found in your—what has your experience been so far in your efforts to try to reign some of this in?

Mr. MINGE. Well, I have worked in several different capacities. One is to meet with business and State officials that are involved in economic development and planning, and by and large I found the reception to be quite positive. In fact, the largest criticism that I have had or the most significant criticism is that my bill is not stern enough, that instead of essentially a 100 percent tax on any benefit, I use a lower tax rate or in the alternative they said why don't you just flat out prohibit this and have some agency that is responsible for the enforcement of this so that we don't have states using taxpayer money for subsidies to induce businesses to move from one State to another.

When it comes to our colleagues here in Congress, there is some skittishness. There is a reluctance to jump into what they think is essentially a State and local issue. They feel if states and municipalities want to compete with each other and spend taxpayer dollars trying to woo each other's corporate headquarters, that is, you know, sort of like this is America, that is what we do, but on the other hand, as I have sat down and talked with colleagues about this, they have recognized that this is a very uncomfortable position that their State is often put in, and they would like to see something done.

And what I am doing now is concentrating on finding cosponsors and starting to talk to the Ways and Means Committee ,which is the committee that would have jurisdiction over my bill, to see if they would consider having a hearing on it.

Chairman KASICH. I want to thank all three of you, and I hope, Congressman Minge, that you will help me to assist Mr. Shamansky in being able to get an outcome. I mean I can promise you that he didn't do this because he had any self-interest, I can promise you that. He stumbled into something, and he went this isn't fair, and as a result, he has just been pursuing it, and we have actually worked with him for a while, but we need to get something resolved on this front. So I hope in a bipartisan way you

will join with me, and we will make sure we can get this resolved for him.

Mr. MINGE. John, maybe this is something the three of us, now that we have heard it, we can cosponsor together. I think that he has a marvelous set of proposals and I compliment him.

Chairman KASICH. It is kind of hard to believe, especially in the era of all the communication, the technology, it is just pretty amazing.

Mr. SHAMANSKY. If I may, Mr. Chairman, show in a sense a softie I am. I am a lawyer, as I have said repeatedly. That is why I spotted the word "opine" I think, but yesterday, I walked in front of the Supreme Court building, and it says "Equal Justice Under Law." I want you to understand, I am affected by it. I actually believe that, and I was asked earlier, how could you and I be operating on this, and I said that is what this—but that is what this country is about. We are agreeing on the issue, and we are talking about fairness and justice, and it is equal, and that is all we are talking about, but it is what we are talking about.

Chairman KASICH. That is exactly right. I want to pay you the highest compliment for coming today, and I hope we can somehow soon end this frustration. OK.

We go to our final panel, which is going to be a very interesting panel. Grover Norquist, Americans for Tax Reform; Steve Moore, the CATO Institute; Robert McIntyre, Citizens for Tax Justice; Jill Lancelot, one of my favorites, Taxpayers for Common Sense; and Tom Schatz with the Citizens Against Government Waste.

Is Jill still with us or did she leave? OK. I think we will start with the way they are listed on the sheet here. So, Grover, you get—oh, I am sorry, you are right. I will go to my favorite witness, Jill Lancelot, who will—are you prepared, Jill, to start?

STATEMENTS OF JILL LANCELOT, LEGISLATIVE DIRECTOR, TAXPAYERS FOR COMMON SENSE; THOMAS SCHATZ, PRESIDENT, CITIZENS AGAINST GOVERNMENT WASTE; ROBERT McINTYRE, DIRECTOR, CITIZENS FOR TAX JUSTICE; STEPHEN MOORE, DIRECTOR OF FISCAL POLICY STUDIES, CATO INSTITUTE; GROVER NORQUIST, PRESIDENT, AMERICANS FOR TAX REFORM

STATEMENT OF JILL LANCELOT

Ms. LANCELOT. I am. Thank you, Mr. Chairman and members of the committee. My name is Jill Lancelot. I am cofounder and Legislative Director of Taxpayers for Common Sense, and certainly, Mr. Chairman, I would like to say thank you for giving us the opportunity to appear here today, but in particular I want to thank you for your leadership on this issue.

In the interest of time, I think I will skip through where Taxpayers for Common Sense is unless you think that is necessary. It is in the testimony, and folks can see who we are, but I am obviously here to talk about Federal subsidies to business through direct Federal payments and tax breaks. It is a practice that we have all come to know as corporate welfare. Taxpayers for Common Sense believes the corporate welfare both drains the U.S. Treasury and misuses taxpayer money.

The projected budget surplus that has been making headlines this week in no way obviates the need to reduce unnecessary and wasteful government spending. There is never a time to waste the hard earned money of taxpayer dollars. Instead, Congress should work to further bolster America's current economic strings by removing the drain of corporate welfare, a misguided spending priority that needs to end now.

Not only is corporate welfare a misuse of taxpayer money, but it can have other ramifications as well. It can distort the market by maintaining industries that may not be able to compete on their own. Generally speaking, picking and choosing corporate winners is best left to the market.

Corporate welfare also denies a fair return on taxpayer owned resources and properties. Corporate welfare continues programs long after they have achieved their intended purpose. Perhaps it may be impolitic to mention this, considering I am testifying before a house committee, but we do think that corporate welfare can sometimes encourage an unhealthy relationship between politicians and industry, each coming to depend on the other.

I have chosen five examples that we deem corporate welfare, and I will summarize them quickly in the interest of time. The first four are also in the Green Scissors report and part of the Green Scissors campaign, and as noted earlier this morning, Ralph Nader has talked about some of these, but I think it is worth mentioning them again. Clearly, they are on many people's lists.

The nuclear power industry provides a prime example of the government propping up an industry that the market was unwilling to support. In 1957, when no private insurance——

Chairman KASICH. Jill, excuse me 1 second. Is there a way you can summarize these five because we are going to be here all day if we don't do that. At least most of them have been here—Moore has been here for 3 hours.

Ms. LANCELOT. Well, as Mr. Nader said, Price Anderson prematurely pushed an industry into the market, and it has so far had about forty—there are many different estimates out there, $47 billion in subsidies to date, and the government, the Congress and Department of Energy have just funded two more unnecessary programs.

The barge industry is a fine example where companies don't pay their fair share, which is an area we think is corporate welfare as well. The taxpayers built the waterway system, and the users don't pay for their operation and maintenance. We are talking about companies like Archer-Daniels-Midland, Cargill, Conagra or Dupont. We think that they can afford to contribute at least 50 percent to the operation and maintenance of the inland waterway system.

As Mr. Nader and other Members of Congress mentioned, the 1872 mining law which governs the extraction of precious hard rock minerals on public lands, there is no royalty on these. The mining industry takes these precious metals for free. Even though the coal, oil and gas industries pay a royalty for the privilege of extracting those resources from public lands, the government has been forced to give away more than $240 billion of minerals under

this law. This is, I think, a very good illustration of corporate welfare because it denies taxpayers a fair return on their assets.

The Clean Coal Technology Program, another good example. Not only has this program failed to achieve its intended purpose, but it also benefits a wealthy industry that doesn't need its help. GAO says that it is a program fraught with waste and mismanagement.

Those are the four corporate welfare programs that the Green Scissors campaign has also targeted.

The defense contract mergers, which is what Mr. Nader talked about as well, although these are not in the spotlight right now because there is—none of them are taking place, the Pentagon can under current policy appropriate funds to reimburse defense contractors for expenses that are related to corporate mergers. The recipients of these funds include corporations such as General Electric, Northrop Grumman, Hughes Aircraft, and the decision to merge any of these related expenses should certainly be solely the responsibility of the companies involved. Taxpayer handouts should not fund these or any other many business decisions that private companies must make every day.

In 1996 Congress passed legislation that ended public welfare as we knew it. Today we need similar legislation that calls for an end to taxpayer subsidized handouts to financially strong businesses and mature industries.

That does end the formal part of my testimony, but I would like to make one other comment, if I may. The good news that I take from this hearing is that organizations that often disagree seem to find common ground on this issue. And I would like to applaud the chairman and enthusiastically support the suggestion that you made that we all sit down and come together and figure out one or two issues that we can all work on, and I just want to make—tell a quick story.

This is the way to make something happen, where you have disparate groups coming together and members from both sides of the aisle coming together, focusing on one or two issues. It happened in 1983 before you—I sort of show my age here because it happened prior to the chairman coming to Congress—but the Clinch River Breeder reactor was a program that the government wanted to fund with a lot of money. I and others put together something called the Taxpayers Coalition Against Clinch River, and it had some of the people here on that maybe—some of the people here at the table actually the organizations hadn't started yet—but Citizens for Competitive Enterprise Institute, which was their first year, was involved along with business groups, religious groups, environmental groups, taxpayers groups.

We formed this coalition and we killed the Clinch River Breeder reactor when it was going to be built in the State of Tennessee——

Chairman KASICH. That sounds like a holy alliance.

Ms. LANCELOT. In the State of Tennessee. We did this in 1983 when Howard Baker was majority leader of the Senate in whose State the Clinch River Breeder reactor was going to be built. In the House we had people like Vin Weber, a conservative from Minnesota; George Brown, Democrat liberal from California; and everybody in the middle; Claudine Schneider, moderate Republican from Rhode Island. In the Senate, we had Senator Bumpers, we all know

Senator Bumpers from Arkansas that would be; and very conservative Republican from New Hampshire, Gordon Humphrey; and they stood up on the floor and they talked about the subsidies and the corporate welfare of this program and we beat it.

So I applaud you. I support you. Let us do it. Thank you.

[The prepared statement of Jill Lancelot follows:]

PREPARED STATEMENT OF JILL LANCELOT, LEGISLATIVE DIRECTOR, TAXPAYERS FOR COMMON SENSE

Good afternoon. My name is Jill Lancelot, and I am Co-founder and Legislative Director of Taxpayers for Common Sense (TCS). Mr. Chairman, thank you for the opportunity to testify before the House Budget Committee's hearing on Corporate Welfare. I want to thank you, Mr. Chairman for your leadership on this issue.

TCS is dedicated to cutting wasteful government spending and subsidies and keeping the budget balanced through research and citizen education. We are a politically independent organization that seeks to reach out to taxpayers of all political beliefs in working toward a government that costs less, makes more sense and inspires more trust. Taxpayers for Common Sense receives no government grants or contracts.

Mr. Chairman, today I am here to speak about Federal subsidies to business through direct Federal payments as well as tax breaks. This practice has come to be known as "corporate welfare." TCS believes that corporate welfare both drains the US Treasury and misuses taxpayer money.

The projected budget surplus making headlines this week in no way obviates the need to reduce unnecessary and wasteful government spending. There is never a time to waste the hard-earned tax dollars of the American people. Instead, Congress should work to further bolster America's current economic strength by removing the drain of corporate welfare, a misguided spending priority that needs to end.

Not only is corporate welfare a misuse of taxpayer money, but it can have other ramifications as well. It can distort the market by maintaining industries that may not be able to compete on their own. Generally speaking, picking and choosing corporate winners is best left to the market. Corporate welfare can also encourage an unhealthy relationship between politicians and industry with each coming to depend on favors from the other. All, of course, at the expense of the taxpayer. Let me expand on these points with several examples.

NUCLEAR INSURANCE AND RESEARCH

The nuclear power industry provides a prime example of the government propping up an industry that the market is unwilling to support. Beginning after World War II with the Atoms for Peace program, America was determined to convert nuclear power into a productive rather than a destructive force. Then in 1957 the government released its first nuclear reactor safety study. This study concluded that a nuclear power accident could result in $7 billion of property damage and thousands of injuries. Recognizing the potential costs, a Vice President from GE told Congress that his company and others would not build nuclear power reactors unless they could be shielded from full liability in the event of such an accident. Since no private insurance companies would insure the reactors, Congress stepped in by passing the Price Anderson Act of 1957, a federally underwritten insurance scheme that paved the way for the construction of nuclear power reactors. Although originally enacted for only 10 years in an effort to jump-start the fledgling industry, it has been periodically extended and continues today to shield the nuclear industry from its full financial responsibility.

Forty-two years ago the government defied signals from the private sector and prematurely pushed the nuclear power industry into the market place. And still, after $47 billion in subsidies and no reactor orders since 1974, the government continues to throw money at the industry to help it keep its head above water.

Congress made history during the FY98 appropriations process when, for the first time since 1950, it did not give any direct money to the nuclear power industry. This was quickly reversed when Congress provided $19 million in FY99 for the Department of Energy's Nuclear Energy Research Initiative (NERI). To date, the Senate-passed Energy and Water Appropriations bill for FY00 has provided $25 million for NERI and $5 million for the Nuclear Energy Plant Optimization program.

These programs will examine reactor aging issues—work already being performed by the Nuclear Regulatory Commission (NRC). Once again the government is subsidizing research for the mature commercial nuclear reactor industry by setting up

brand new programs that are duplicative and unnecessary. The nuclear power industry generated $141 billion in 1996 revenues—surely it can afford to improve mature products without more taxpayer subsidies.

BARGE SUBSIDIES

Second, consider the barge industry. Federal programs perpetuate an uneven playing field by subsidizing financially flush corporations that have it well within their means to pay at least 50 percent of the costs associated with operating and maintaining the nation's inland waterways.

The Congressional Budget Office has declared the barge industry the most heavily subsidized mode of transporting goods. It is estimated that Congress appropriates about $500 million annually for the operation and maintenance (O&M) of inland waterways. The O&M of this system requires, among other activities, the dredging of shipping channels and the rehabilitation and repair of locks and dams, costing taxpayers millions each year. TCS believes that, as major beneficiaries, the barge industry should contribute at least 50 percent to the overall costs of inland waterway O&M.

Among the beneficiaries of this subsidy are a small group of 20 wealthy barge owners. These corporations include:

- American River Transport Co., a division of Archer-Daniels-Midland Co. (a company with sales in FY '97 of $13.9 billion)
- Cargo Carriers, Inc., a subsidiary of Cargill, Inc. (a company with sales in FY '97 of $67.7 billion)
- Peavey Barge Lines, a subsidiary of Conagra, Inc. (a company with sales in FY '97 of $24.0 billion)
- Consolidation Coal Co., a subsidiary of Dupont Nemours & Co. (a company with sales in FY '97 of $46.7 billion)

Inland waterway operation and maintenance is a cost of doing business. Taxpayers paid to build the waterway system. At least let the users contribute to its maintenance.

HARD ROCK MINING

The General Mining Law of 1872 is the granddaddy of all subsidies and is often at the top of many lists of outrageous give-aways. With good reason. The 1872 mining law governs the extraction of precious hard-rock minerals such as gold, silver, and platinum that are located on public lands belonging to the American people.

First, under the law the mining industry is entitled to take free of any charge, gold and other precious minerals found on public lands. By comparison, oil and natural gas companies are charged a 12.5 percent royalty for extracting resources from public lands; for coal mined on the surface a royalty rate of 12.5 percent is paid and 8 percent for coal mined underground.

Second, the law entitles large multinational corporations to take full title (called patenting) to mineral-rich lands for no more than $5.00 an acre. Through patenting or royalty-free mining the U.S. government has had to give away more than $245 billion of minerals.

CLEAN COAL TECHNOLOGY PROGRAM

Third, consider the Clean Coal Technology Program. Since 1985 at least $1.2 billion has been spent for this program. A 1991, General Accounting Office (GAO) report found a history of waste and mismanagement—a large number of projects had either been terminated within a few years of being funded, experienced substantial schedule delays, or exceeded their budgets.

This mismanagement continues. Currently, there are seven projects that have been in the design phase for between 5 and 10 years and have yet to go to construction. Two of those projects are in bankruptcy. Other projects have been moved from site to site not finding any place suitable. The Department of Energy still has a $610 million commitment to these projects that are still in the "design phase".

Furthermore, the program is duplicative because similar research is being funded by the coal industry and by states in coal producing regions in an effort to promote the coal industry.

In 1996, the total value of domestic coal production exceeded $19 billion. This mature industry hardly needs a subsidy program, especially one that has serious questions regarding its effectiveness and productivity.

The CCTP is a glaring example of the government's poor track record when it comes to selecting viable corporations. If left on its own, the CCTP most likely would not have survived the vagaries of the marketplace. However, as with so many

corporate welfare programs, the subsidies allow an inefficient and impractical program to survive thanks to taxpayer dollars.

DEFENSE CONTRACTOR MERGER SUBSIDIES

Corporate welfare involving defense mergers currently has fallen out of the spotlight as mergers have declined, but nevertheless could reappear at any time. Under existing policy, the Pentagon can spend appropriated funds to reimburse defense contractors for expenses related to corporate mergers. Called "restructuring funds" these handouts reward contractors for expenses for an activity that they presumably would have done anyway for sound business reasons.

Recipients of the funds have included defense giants such as General Electric, Northrop Grumman, and Hughes Aircraft. Since the merger subsidy program began in 1993, these and other defense companies have billed over $817 million to the Pentagon. The decision to merge and any related expenses are solely the responsibility of the companies involved. Taxpayer handouts should not fund these or any of the other many business decisions that private companies must make every day.

CONCLUSION

In August 1996, anger at America's public welfare system culminated in the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, legislation that ended welfare as we knew it. Today we need similar legislation that calls for an end to taxpayer subsidized hand-outs to financially strong businesses and mature industries.

Note: Attached is TCS's ten top corporate welfare items

TEN TOP CORPORATE WELFARE ITEMS

1. SUBSIDIES TO THE HARD ROCK MINING INDUSTRY

The 1872 Mining Law governs the extraction of precious hard-rock minerals such as gold, silver, and platinum that are located on public lands belonging to the American people. First, it entitles the industry to take free of any charge, gold and other precious minerals found on public lands. Second, the law entitles large multinational corporations to take full title to mineral-rich lands for no more than $5.00 an acre. Under 1872 mining law the government has had to give away more than $240 billion worth of minerals.

2. SUBSIDIES TO THE TIMBER INDUSTRY

The U.S. Forest Service loses hundreds of millions of dollars selling trees from our National Forests to private timber companies. According to reports from the General Accounting Office (GAO) the Forest Service lost more than $2 billion from 1992 to 1997. One of the primary reasons for these huge losses is due to money-losing timber sales. More often than not, the Forest Service loses money when it sells National Forest trees because the agency charges timber companies far less than it costs to prepare and administer the sales. Furthermore, taxpayer dollars are spent on the construction of logging roads to assist timber companies in cutting and removing timber. The GAO reported that timber road construction cost American taxpayers $387 million from 1992-1997.

3. SUBSIDIES TO THE LIVESTOCK INDUSTRY

Grazing on public land by privately-owned domestic livestock is subsidized by taxpayers because the fee charged is not enough to cover the costs of the program administered by the U.S. Forest Service and the Bureau of Land Management. The program costs at least $5.76 per animal unit month (AUM) yet the current fee is only $1.35 per AUM. Recipients of grazing subsidies include major companies such as Union Oil, Getty Oil, Newmont Mining, and Anheuser Busch.

4. DEFENSE CONTRACTOR MERGER SUBSIDIES

Under existing policy, the Pentagon can spend appropriated funds to reimburse defense contractors for expenses related to corporate mergers. Recipients of the funds include corporations such as General Electric, Northrop Grumman, and Hughes Aircraft.

5. OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation (OPIC) provides subsidized loans and insurance to corporations for overseas investment. The insurance covers expro-

priation, political violence and currency inconvertibility. OPIC also finances joint ventures in which foreign enterprises can own up to 75% of the project. Taxpayer money should not be used to encourage unstable overseas investment by multinational corporations who likely have the resources to find their own financing and insurance.

6. ADVANCED TECHNOLOGY PROGRAM (ATP)

The Advanced Technology Program (ATP) was created in 1988 with the objective of ushering in new technological advancements by awarding support grants for research and development to various corporations and joint ventures. Though the program may have had a worthy objective, there is no proof that ATP subsidies are essential for encouraging investment in research and development. According to a March 1997 report by the Congressional Budget Office (CBO), almost half of ATP grant near-winners "continued their research and development projects despite a lack of ATP funding". Recipients of these funds have been General Electric, Xerox, Dupont, Caterpiller, and United Airlines.

7. MARKET ACCESS PROGRAM

The Market Access Program (MAP), formerly known as the Market Promotion Program, is administered by the Foreign Services Department of the U.S. Department of Agriculture to encourage exports of agricultural projects. MAP funds consumer-related promotions of high-value products through trade shows, advertising campaigns, commodity analysis, information on foreign markets and training of foreign nationals. In the last 10 years, more than $1.5 billion of taxpayer money was authorized for MAP—funding promotions that benefit large trade organizations and cooperatives, such as Sunkist and Ocean Spray, who can easily afford their own advertising.

8. SUBSIDIES TO THE COAL INDUSTRY

A. The Clean Coal Technology Program is a program with a history of waste and mismanagement.

B. The Department of Energy's research and development program is an unnecessary program because it duplicates research conducted privately. The government has invested in programs that are ineffective and in which the market has shown no interest.

9. SUBSIDIES TO THE BARGE INDUSTRY

Each year, Congress appropriates approximately $500 million for the operation and maintenance of the 11,000-mile Federal inland waterway system. Operation and maintenance consists of, among other activities, the dredging of shipping channels and the rehabilitation and repair of locks and dams. Among the beneficiaries of this government service are a small group of 20 wealthy barge owners, including subsidiaries of Cargill, Inc. and Conagra, Inc. The barge industry should pay for at least 50% of the costs associated with inland waterway operation and maintenance.

10. SUBSIDIES TO THE NUCLEAR INDUSTRY

In 1957, when no private insurance companies would insure nuclear reactors because of the magnitude of potential costs, the government stepped in by passing the Price Anderson Act. That legislation prematurely pushed the nuclear power industry into the market place. Forty-two years and 47 billion dollars later the U.S. government continues to subsidize the industry. Last year the Department of Energy created two new unnecessary and duplicative programs.

Chairman KASICH. Tom.

STATEMENT OF THOMAS SCHATZ

Mr. SCHATZ. Thank you very much, Mr. Chairman. I very much appreciate the opportunity to be speaking today on business subsidies and certainly appreciate your leadership in this area over the years, and all of us at this table have worked together on this, and we look forward to continuing to do that in the future.

As you know from your attendance at our press conference earlier this month, each year Citizens Against Government Waste publishes Prime Cuts. This year the edition had 640 recommenda-

tions that would save taxpayers more than $147 billion in 1 year and $1.2 trillion over 5 years. Prime Cuts proves that there are plenty of answers to the question of how Congress can stay within the budget caps from the 1997 Balanced Budget Act.

Among the most significant recommendations are the business subsidy items. Our top 10 list includes the Advanced Technology Program, the Clean Coal Technology Program, Dairy, Peanut and Sugar Subsidies, the Essential Air Service, the Export Enhancement Program, Market Access Program, Overseas Private Investment Corporation, Partnership for a New Generation of Vehicles, Power Marketing Administrations, and the Rural Utilities Service. Time will not permit me to elaborate on all of these programs. They are all discussed in my formal statement, and therefore, I would like to focus briefly on the Advanced Technology Program.

ATP was established in 1990 under President George Bush. It was supposed to promote the competitiveness of U.S. business by accelerating the development and commercialization of promising high risk technologies with substantial potential for enhancing U.S. economic growth. The intentions were noble, but the premise from which they were hatched was wrong. To agree with ATP's supposition, one would also have to agree that government funding creates wealth and that companies need government grants in order to innovate.

Government does not create wealth. It takes our taxes, keeps some for itself for administrative purposes and sends it back to the public. It cannot judge the marketplace as well as the private sector. If Federal spending did create wealth, then surely West Virginia would be one of the wealthiest States in the Union, given the deluge of Federal spending the State has enjoyed in the past decade. However, West Virginia is currently the second poorest State.

In regard to ATP, a 1996 General Accounting Office study found that 63 percent of the companies that applied for this funding from the Government didn't even bother to look elsewhere for money, and half of those rejected managed to find alternate sources of support. It is always easier to look for the handout than to do your own homework in the private sector and get money.

And the money ATP provides is virtually nothing, about 1 percent compared to what the technology sector itself spends on research and development. According to the National Science Foundation, private industry spent more than $221 billion on R&D in 1998, up 7 percent after inflation from the year before, and all you have to do is look at the rush to get those Internet stocks out and the new tech stocks out on the market and on Wall Street, and you can see the money flowing in through venture capital. That is the way these advanced technologies should be funded.

The companies are already doing this research. They will continue to do it without government assistance. They are also helped by the 20 percent R&D tax credit which is available to everyone, not just those companies selected by the Department of Commerce. Microsoft, of course, is a prime example of how R&D should work in the free market. Bill Gates didn't go to the government for a handout. He stuck it out in his garage, and today, this is obviously the most dynamic software company in the world and it was built

through American ingenuity, not with the government's help. The company spends $3 billion a year on R&D.

And here are some examples of what the Advanced Technology Program has been doing. Film technologies to replace paint on aircraft, a joint venture between 3M and United Airlines, and it would save about a $100,000 on a new Boeing 747. The companies that benefit from this new technology should be funding the research themselves.

Application of gene therapy to the treatment of cardiovascular diseases. The National Institutes of Health currently spends $264 million on the Human Genome Research project. Now, that is where this money should be going, and as it turns out, it is our understanding, although we have not totally verified it, that the company that got this money went out of business at the end of last year.

There is another one, ultra high density magnetic recording heads. Research money goes to a who's who of Fortune 500 companies: Digital Equipment, Eastman-Kodak, Hewlett-Packard, IBM. They will get the benefit of the increased market share from this technology.

And finally, something called a suite of process monitoring and control technologies to cut costs and improve quality in the U.S. auto industry. This will clearly help only the U.S. auto industry, which now spends $17½ billion a year on R&D. Why should the taxpayers be paying more?

Mr. Chairman, this list is only the beginning. This is the big pile of ATP grants, and a lot of them are fairly interesting, but all of them are really a waste of money because you are talking about a tiny percentage of the R&D, and you are talking about choices being made through a bureaucracy and not through the marketplace. I look forward to answering any questions on this or any of the other programs listed in our statement or even in the Prime Cuts, and I look forward to your continuing excellent work and your leadership in this area.

[The prepared statement of Mr. Schatz follows:]

PREPARED STATEMENT OF THOMAS A. SCHATZ, PRESIDENT, CITIZENS AGAINST GOVERNMENT WASTE

Good morning, Mr. Chairman. Thank you for the opportunity to testify today before the House Budget Committee. My name is Tom Schatz, and I represent the 600,000 members of the Citizens Against Government Waste (CAGW).

CAGW was created 15 years ago after the late Peter Grace presented to President Ronald Reagan the 2,478 findings and recommendations of the Grace Commission (formally known as the President's Private Sector Survey on Cost Control). These 2,478 recommendations provided a blueprint for a more efficient, effective, less wasteful, and smaller government.

Since 1984, the implementation of Grace Commission and CAGW recommendations has helped save taxpayers $625 billion.

Testifying before this committee is both an honor and a privilege. CAGW works tirelessly to educate the American public about wasteful government spending and the long-term implications of a bloated bureaucracy. Hearings such as this one will help CAGW in its mission to make government more accountable.

Mr. Chairman, as you know by your attendance at our press conference earlier this month, each year CAGW publishes Prime Cuts, a comprehensive list of spending cut options available to Congress. The 1999 edition listed 640 recommendations that could save taxpayers more than $147 billion in 1 year and $1.2 trillion over 5 years. Prime Cuts proves that the problem in Washington is not the lack of ideas, but the lack of political courage to implement them.

Among the most disturbing recommendations in Prime Cuts are the business subsidy items. In short, business subsidies, or corporate welfare as they are often called, are government spending programs that provide unique benefits or advantages to specific companies or industries. Corporate welfare includes subsides, grants, cut-rate insurance, low-interest loans and loan guarantees, trade restrictions, and other special privileges that confer benefits on targeted firms or industries.

There are many programs that are classified as business subsidies. CAGW's top ten list is as follows:

1. The Advanced Technology Program (ATP)
2. The Clean Coal Technology Program
3. Dairy, Peanut and Sugar subsidies
4. The Essential Air Service
5. The Export Enhancement Program (EEP)
6. The Market Access Program (MAP)
7. The Overseas Private Investment Corporation (OPIC)
8. Partnership for a New Generation of Vehicles
9. Power Marketing Administrations
10. The Rural Utilities Service (RUS)

The Clean Coal Technology Program was created in 1984 to assist private industry with developing commercial technologies that would use coal in environmentally sound ways. The General Accounting Office (GAO) has cited numerous demonstration projects that are experiencing difficulty in meeting cost, schedule, and performance goals. The Department of Energy has been more than generous to participating companies by extending project deadlines several times to allow their sponsors to restructure them. Even if the projects were to perform well, coal has very few remaining applications and is a dying substitute for other fossil fuels. The rationale for the Clean Coal Technology Program no longer exists, so the program should no longer exist.

Based on a 60-year-old pricing scheme created to ensure an adequate supply of pure and wholesome milk, marketing orders inflate the prices of all products that contain milk. Milk marketing orders are regulations approved by dairy farmers in individual fluid milk markets that require dairy manufacturers to pay minimum monthly prices for milk purchases. The most illogical of all the provisions is the "differential" pricing scheme, which charges the manufacturers of fluid milk additional premiums, based in part on how far the manufacturing plants are from Eau Claire, Wisconsin. This makes about as much sense as the Federal Government requiring computers manufactured in Maine to be sold at a higher price than those manufactured in the Silicon Valley. The USDA milk marketing rule adopted in April 1999 merely reduces the number of regional milk marketing orders from 31 to 11 and the blatant disparity in the price differentials, but fails to enhance industry competitiveness.

As a result of the 1996 Farm Bill, farmers now have the freedom to farm almost everything, except peanuts. Only farmers who own or lease a production quota can legally grow peanuts to be sold for edible use. With a government-guaranteed support price of $610 per ton (compared to a world price of $350 per ton), domestic prices are 74.3 percent higher than the average world market price. This imposes a hidden peanut tax of as much as $500 million annually on U.S. consumers. As taxpayers, consumers are hit again for millions of dollars that the Federal Government pays each year in inflated peanut prices for government feeding programs.

The present sugar program consists of a domestic commodity loan program that sets a support price (loan rate) for sugar and establishes an import quota system that restricts foreign competition and ensures a high domestic price for sugar. When Congress reformed most agricultural programs in the 1996 Farm Bill, it left the sugar program virtually untouched. The sugar program costs consumers at least $1.2 billion in higher costs for sugar and sugar-containing products, and it costs taxpayers another $90 million in higher prices for sugar and sugar-containing products purchased for the Federal Government's feeding programs. A handful of wealthy sugar barons, who represent less than 1 percent of the nation's sugar growers, gobble up 58 percent of the program benefits. These are not small family farmers. In a recent year, 33 cane sugar growers obtained more than one million dollars each from this government boondoggle, and one grower alone received $65 million.

The Export Enhancement Program (EEP) was established in 1985 to subsidize the export of agricultural commodities. EEP participants negotiate directly with buyers in a targeted country and then submit bids to USDA for cash bonuses. Wheat growers have been the primary beneficiaries of EEP, which has awarded nearly $7.2 billion in bonuses since its inception. Proponents claim that EEP is necessary because European wheat farmers are heavily subsidized, thereby creating an uneven playing

field for U.S. wheat to be sold overseas. But this program is simply a handout to big corporations so they can dump wheat on the international market. The 1994 Uruguay Round of the General Agreement on Tariffs and Trade, which pledged to reduce both the volume of subsidized exports of agricultural products and budgetary outlays on export subsides for those products, also reduces the need for this corporate welfare giveaway.

The Market Access Program (MAP) is the Federal Government's attempt to help build foreign markets for multimillion dollar companies. In the past, this corporate handout has gone to multinational corporations such as Burger King, Dole, Purina, and Sunkist. Even though the 1996 Farm Bill placed tighter restrictions on MAP spending, this program still needs to be eliminated. No one has been able to determine whether MAP actually works, but even if it did, why should private citizens pay for it?

The Overseas Private Investment Corporation (OPIC) was created to provide subsidized direct loans, guarantees of private lending, export credit assistance, and political risk insurance to corporations. It tempts companies to invest in countries where their better sense tells them not to. The Federal Government should not be using tax dollars to subsidize such risky investments.

Power Marketing Administrations (PMAs) were established in the 1930's to provide remote areas of the country with access to electricity. There are currently four PMAs serving parts of 33 states. The electricity provided by PMAs is sold well below the actual cost of producing electricity; the Federal Government makes up the difference through subsidies. There are two ways that PMAs could be privatized: a transitional government corporation could prepare them for sale within a fixed time, or their assets could be sold to existing customers or on the open market. The Congressional Budget Office notes that Federal sales of power only reduce utility bills slightly and therefore privatization would initially raise rates for a small number of consumers. These increases would simply address a market distortion caused by subsidized electricity; they would not "gouge" the consumer. The national movement to deregulate the electric industry requires that PMAs be privatized in order to begin to even the playing field.

The initial mission of Rural Utilities Service (RUS) (formerly known as the Rural Electrification Administration) was to assist the nation's rural areas with utility infrastructure development. This mission has been accomplished. RUS survives today to bring low-cost electricity to former remote locations - for example Aspen and Vail, Colo.; Hilton Head, S.C.; and Potomac, Md. Other beneficiaries of low-cost electricity include major telephone holding companies. An April 1997 GAO report stated that $8 billion, or 19 percent, of the RUS's outstanding principle on loans was owed by borrowers that were experiencing financial difficulties (read: they won't be paying the money back). RUS survives today in a new and unnecessary form. The electrification and telephone subsidies should be eliminated, especially to nonrural areas, and current borrowers should be encouraged to pay off their loans.

While all of these are prime examples of business subsidies, I would like to focus my testimony today on one particular program, the Advanced Technology Program (ATP).

ATP was established in 1990 under President George Bush. It was supposed to promote the competitiveness of U.S. business by accelerating the development and commercialization of promising high-risk technologies with substantial potential for enhancing U.S. economic growth. The intentions were noble, but the premise from which they were hatched was wrong. For one to agree with ATP's supposition, one would also have to agree that government funding creates wealth and that companies need government grants in order to innovate.

Government does not create wealth. It is ludicrous to think that any entity that levies taxes and then distributes that money after skimming a portion for administrative purposes could create wealth better than an individual or company. It is not the government's money; it is the people's money that is being recycled back to them. Secondly, if Federal spending did create wealth, West Virginia would surely be one of the wealthiest states in the union based on the deluge of Federal spending that state has enjoyed in the past decade. However, West Virginia is currently the second poorest state.

Government programs don't add to the pool of research and development funds; they actually take the place of private funds. A 1996 GAO study found that 63 percent of companies that applied for ATP grants didn't even bother to look elsewhere for funding. Yet half of those rejected for grants managed to find alternate sources of support.

Further, the money ATP provides is virtually nothing compared to what the technology sector itself spends on research and development. According to the National Science Foundation, private industry spent more than $221 billion on R&D in 1998,

up 7 percent after inflation from the year before. These companies are already doing the research, and will continue to do it without government assistance. They are also helped by the 20 percent R&D tax credit, which is available to all companies, not just those selected by the Department of Commerce (DOC). Handing out tax dollars to a chosen few companies is much more likely to result in the underwriting of poor investments than allowing the marketplace to make those decisions. One only need look at the initial public offerings of Internet company stocks and the rush to invest in new technologies to realize that, once again, the private sector is far ahead of the government.

The Microsoft Corporation is a prime example of how research and development should work in the free market. It is one the most innovative companies in the history of America. Microsoft Chairman Bill Gates started out with a vision and, through hard work and perseverance, built one of the most dynamic software companies in the world. Microsoft was built with American ingenuity, not a government handout. The company spends $3 billion a year on R&D.

Corporate subsidies often go by the name of "government investments" or "government-industry partnerships." These programs are disguised by techno-talk, as exhibited on the Department of Commerce's website, which devoted an entire page to rebutting CAGW's corporate welfare claim. The following grants provide insight into ATP:

Film Technologies to Replace Paint on Aircraft: 3M and United Airlines jointly propose to develop environmentally sound film products to replace paint used on aircraft exteriors. This will help reduce drag on airlines and can reduce fuel consumption by up to 1 percent or more, saving $100,000 or more annually on a Boeing 747. It is safe to say that that companies who benefit from a new technology should pay for the research and development of that new product.

Application of Gene Therapy to Treatment of Cardiovascular Diseases: Gene therapy is the identification and eventual manipulation of a cell to correct a genetic defect. The National Institute of Health's National Human Genome Research Institute is currently undertaking this research. With a budget of $264,892,000 for this project in fiscal year 1999, this research is moving forward without the aid of ATP.

Ultra-High Density Magnetic Recording Heads: This research money goes to a Who's Who of Fortune 500 companies, including Digital Equipment Company, Eastman-Kodak, Hewlett-Packard, and IBM. All will get the benefit of an increased market share with the development of this new technology.

A suite of process-monitoring and control technologies to cut costs and improve quality throughout the U.S. auto industry: The Department of Commerce openly admits that this technology will help the U.S. auto industry. This grant, highlighted in DOC's Prime Cuts rebuttal, is typical bureaucratic thinking that the government, not private industry, should be the leading force behind research and development. The auto industry currently spends $17.5 billion annually on R&D. Why should taxpayers pay for more?

Mr. Chairman, this list is only the beginning. While time does not permit me to discuss all ATP grants, I would like to submit the list CAGW has obtained to date.

With the approaching appropriations battle, Congress needs to cut government waste to stay within the budget caps. Members should shine a white-hot spotlight on business subsidies. Eliminating such items from the budget will end a cycle of dependence that some corporations have on the Federal Government.

Five years ago, Congress took bold leadership in reforming welfare for the poor. It is now up to the Budget Committee and Congress to reform business subsidies. I congratulate you on your courageous leadership in this battle over the years, and hope your colleagues will join you.

Thank you very much for this opportunity to testify. This concludes my testimony. I will be happy to answer any questions at this time.

Chairman KASICH. Thank you, Mr. Schatz.

Mr. McIntyre is next.

STATEMENT OF ROBERT McINTYRE

Mr. MCINTYRE. Thank you, Mr. Chairman.

Chairman KASICH. I would also thank you for your patience because I know you have been here for an extended period of time, and I also know you have a very extended testimony, and I would like to make sure that without objection all of that is included in the record, and the gentleman's recognized.

Mr. MCINTYRE. Thank you, Mr. Chairman. It seems like many hours ago when my former boss Ralph Nader said that this was the first hearing on corporate welfare ever. Well, this may be the longest hearing on corporate welfare ever, but alas, it's not the first.

Over the 25 years that I have been hanging around this town doing this, working for Ralph for part of that time, I believe I have attended about 50 or 60 corporate welfare hearings—at the corporate welfare committees, also known as the House Ways and Means and Senate Finance Committees. They have had thousands of such hearings, as best I can tell. I didn't go to them all.

Chairman KASICH. As an assistant to Ralph Nader, if I was a teacher, you started off clearly with an "A" from Ralph Nader. Go ahead.

Mr. MCINTYRE. As we all know, I suppose, the Federal Government provides lots of financial assistance to businesses, and as most people have discovered when they have looked, most of that is through the Internal Revenue Code. We calculate that almost $200 billion this fiscal year will be granted to businesses and their owners in the form of tax preferences. That is a lot of money. It is enough that we could cut taxes by about a sixth if these subsidies didn't exist or we could pay for more of all those government programs that the public likes.

Either way, it seems that American taxpayers who don't benefit from these preferences—and among those taxpayers there are many American businesses—have a right to ask whether these tax preferences for business are serving the public good.

Well, trained well by Ralph Nader, I have always been a free marketer. It always seemed to me that the private sector is really what drives most of what this country does in terms of the economic growth, and that generally they are pretty good at it. The government's very important role is to provide the legal structure, the education system, the highways, the basic scientific research and all the other things that government needs to do and needs to do well to make our economy and our society prosper.

The problem with these corporate welfare items is that they muck up both sides of the equation. They make it hard for the government to do its job because they use up lots of government resources, and they make it hard for the private sector to do its job because they have the government telling private businesses what to invest in and what to do. Neither of those is a good strategy for long term growth or for a healthy American economy or for an economy that is fair.

So my general view is I want you guys to do your job, I want you to have the resources to do it, and I want private business to do its job, and I don't want you guys telling them what to do. That is why over the years I have been a strong opponent of corporate welfare.

Despite my eloquence over the years, many Members of Congress seem to think that putting tax entitlements into the Internal Revenue Code is really a terrific way to do business. Why? Well, one reason, perhaps the biggest of all, is that it has certain advantages if Congress decides to give away money. Let us say that you want to give General Motors a billion dollars. You could put it in a spending bill, "General Motors gets a billion dollars for being a ter-

rific American company that makes pretty good cars." But that shows up as spending, and then you have to raise taxes to do it, and that shows up as taxes, and so people are mad at you for subsidizing General Motors and they are mad at you for raising their taxes. But if you put the subsidy in the tax code, "General Motors gets a billion dollars off on its taxes," that shows up in the budget as a tax cut overall and no spending overall. So you get to have your cake and eat it, too.

So tax subsidies have an advantage over regular spending unfortunately, and that is one big reason why we have so many of them. By the way, I picked out General Motors not quite at random since in 1995 and 1996, despite making several billion dollars in profits, GM didn't pay any taxes. It didn't because in its wisdom Congress in 1993, with President Clinton's endorsement, that was the Democrats, augmented by Congress in 1997, with not too much Democratic support, so I guess that was the Republicans, decided to exempt General Motors' leasing operations from what had been some prohibitions against negative tax rates. As a result, GM's leasing operations zeroed out General Motors from tax, which is too bad.

Now, of course, as the members of the Ways and Means Committee who were here before pointed out, all of these tax breaks are supposedly justified as incentives for valuable economic activity. Well, let me tell you something. Most of these things are pure waste, and that is the good news. When companies come into the Congress and ask for a subsidy for something, they are not coming in to ask you to tell them what to do. They are asking you to pay them for what they are doing anyway. That ought to be obvious.

So you have to understand that when you are subsidizing these companies at their request, they are going to just do what they would have done anyway. That is the good news. The bad news is occasionally these subsidies actually work, and you really distort economic behavior. The classic example of that was in the early eighties when President Reagan, in his first incarnation before he became a born again tax reformer, decided that we should build empty office buildings all over the United States and pay companies to do it. We did and we got the empty office buildings, and the next thing we know, as the Bush Treasury pointed out, we had the S&L crisis. So, yeah, when Congress gets its finger really deep in telling businesses what to do it is not a good result.

Now, I don't have any more time, but I do have some corporate welfare examples in my testimony. I point out that I just picked four that I thought were illustrative. We have a long report that is up on our web site that looks at all of the tax preferences in the code and offers a critique of them. Most of our comments are kind of negative. I encourage the committee to put a link to our report on its web site if you want to know what we really think.

So thank you, Mr. Chairman. I really appreciate it.

[The prepared statement of Mr. McIntyre follows:]

PREPARED STATEMENT OF ROBERT MCINTYRE, DIRECTOR, CITIZENS FOR TAX JUSTICE

Thank you for the opportunity to testify today on the topic of "unnecessary business subsidies," or as it is often popularly styled, "corporate welfare."

As is well known, the Federal Government provides financial assistance to businesses in a variety of ways and for a variety of stated purposes. The vast bulk of such assistance is provided through special tax abatements for businesses that en-

gage in favored activities. As the Congressional Budget Office noted in 1995, "The Federal Government's efforts to promote business are heavily weighted toward tax preferences, with spending and credit programs accounting for a smaller share of Federal efforts."[1]

In fiscal 2000, the total cost of business tax preferences, including those that benefit business investors or subsidize business products, is estimated to be $195 billion[2]—far, far larger than direct-spending business subsidies. One can easily calculate that personal and corporate tax rates are about 20 percent higher than they'd need to be if these tax preferences for business and investment did not exist. Or alternatively, the government could provide far more public services than it currently does at the same statutory tax rates that are now imposed. Citizens and companies that do not benefit from these tax preferences have a right to ask whether they are serving the public good.

We have organized our society to leave most decisions about what to buy and what to make to the free-market decisions of millions of consumers and businesses. Both economic theory and experience teach us that this is generally a wise choice. Of course, it takes a robust legal and political system to make these private decisions possible. Government must provide the legal system, the public infrastructure and the educational system. It must set the rules for commerce, deal with areas where markets do not work well, such as environmental protection and consumer protection, and smooth out the rough edges of capitalism to make sure that those who do not succeed are not left too far behind. It takes substantial public resources to build such a well-functioning economic and social framework, and it behooves the government not to waste its resources on usurping the role of markets where they do well on their own.

"Corporate welfare" is a prime example of where government can undermine its ability to do its own job while simultaneously interfering with the private sector's ability to do what it does best. Curbing such unwarranted interference should be high on the list of those who want a more efficient government and a strong private economy.

In my testimony today, I do not propose to offer an exhaustive critique of all the business subsidies in the tax code. Instead, I want to discuss some general principles, and then focus on a few of the more notable tax-based business subsidies. For a more extensive analysis, I refer the committee to Citizens for Tax Justice's 1996 report, The *Hidden Entitlements* (from which portions of this testimony are adapted).

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[1] Congressional Budget Office, Federal Financial Support of Business, Oct. 1995.

[2] In its 1995 analysis of business subsidies, CBO used a rather narrow definition of business tax preferences, leaving out many of those that benefit business investors or subsidize business products, notably, most capital gains breaks, some tax-exempt bonds, and the exemption for life-insurance inside buildup. Based on the most recent figures published by the Joint Committee on Taxation, the fiscal 2000 total of business tax preferences included on CBO's 1995 list is $80 billion. Adding the investment tax preferences that CBO did not include, the total in fiscal 2000 comes to $195 billion. Even this total is probably understated, particularly with regard to multinational corporation subsidies. Note that the total reported here includes an estimate for the cost of business meals and entertainment write-offs, which was excluded from the CBO list. Note also that tax breaks for retirement savings are excluded from the investment subsidies reported here.

Cost of Tax Breaks for Business & Investment in Fiscal 2000	
Total	**$ 194.9**
Capital gains (except homes)	73.9
Accelerated depreciation	36.9
Insurance cos. & products	29.9
Multinational preferences*	13.5
Tax-free bonds, private**	9.0
Business meals & entertainment	6.6
R&D tax breaks	4.0
Low-income housing credit	4.0
Oil, gas, other energy	3.2
Timber, agriculture, minerals	1.3
Financial institutions (non-insurance)	0.9
Installment sales	0.9
Special ESOP rules	0.8
Empowerment zones	0.8
Other business & investment	9.2
*Probably substantially understated	
**Excludes the $16.5 billion cost of public-purpose bonds.	
Source: Joint Committee on Taxation, Dec. 1998, except (a) figure for business meals & entertainment, estimated by Citizens for Tax Justice and (b) figure for capital gains, based on Treasury and CTJ estimates.	

I. General Principles

Today, there are few who would challenge the notion that tax abatements designed to accomplish some social or economic goal unrelated to equitable tax collection are a form of government subsidy. Both those who lobby for such tax preferences and those who enact them understand this truism. Indeed, these tax-based subsidy programs even have an official name: "tax expenditures." As the Joint Committee on Taxation explains:

> Special income tax provisions are referred to as tax expenditures because they are considered to be analogous to direct outlay programs * * *. Tax

expenditures are most similar to those direct spending programs which have no spending limits, and which are available as entitlements.[3]

For instance, suppose the government wants to subsidize wages for low-income workers. It could try to accomplish this goal in various ways. One might be by regulation, to wit, by setting a minimum hourly wage that businesses are required to pay. Alternatively, the Department of Health and Human Services could provide direct wage subsidies to eligible workers. Or a wage subsidy could be administered by the Internal Revenue Service, either by reducing income taxes for low-income workers, including tax "refunds" for those who owe no income tax, or by offering tax credits to businesses that hire low-income people.

In fact, the government follows all three approaches. First of all, of course, there is a minimum wage. Second, many low-income workers have their salaries supplemented by welfare, food stamps, unemployment compensation and so forth. And third, the tax code provides an "earned-income tax credit" to low- and moderate-income working families and tax credits to businesses that hire certain low-income workers.

Most government spending through the tax code is not targeted toward low-income people, however. In fact, tax breaks tend to reward those with the most lobbying muscle in Washington. Organized corporate interests have been particularly successful in obtaining tax subsidies—so much so that corporate tax expenditures currently equal more than 40 percent of total corporate tax payments.

Tax subsidies as entitlements: When the Joint Committee on Taxation describes tax expenditures as similar to entitlements, it means that most of them continue without further review once they are put into the tax code. In contrast, direct spending on defense, roads, environmental protection, and other non-entitlement programs must be approved every year, and it takes an appropriation bill passed by Congress and signed by the President to do so. If a such a "discretionary" program turns out to cost more than expected, it—or something else—must be scaled back in the annual budget. But if the price tag on a tax break goes up, it continues anyway—and the process of curbing it is much more difficult.

Projected Cuts in Certain Domestic Programs Under the Ten-Year Budget Plan Approved By Congress in 1999 (fiscal years)

	Percent Changes as a Share of GDP	
	1999-04	1999-09
Community and regional development	–84%	–96%
Agriculture	–60%	–72%
General government	–34%	–48%
Environment and natural resources	–25%	–39%
Science and space	–23%	–38%
Crime prevention and other justice activities	–20%	–37%
Transportation	–13%	–30%
Veterans benefits and services	–14%	–27%
Education, training, employment, social services	–3%	–15%

[3] Joint Committee on Taxation, Estimates of Federal Tax Expenditures for Fiscal Years 1996-2000, Sept. 1, 1995, p. 2. See also Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344), sec. 3(a)(3).

The budget advantages that tax entitlements enjoy over most direct spending programs is illustrated in the budget just approved by Congress, which contemplates huge reductions in most areas of domestic discretionary spending as a share of the economy over the next decade. (See table.) In contrast, tax subsidies are expected to maintain, or even expand, their claim on the economy over the same period.

Standards for evaluating business tax subsidies: Size alone would seem to mandate that any serious analysis of possible ways to improve government efficiency and curb waste must include business tax subsidies within its scope. Like other spending programs, tax subsidies ought to be evaluated on the following grounds:

1. Is the subsidy designed to serve an important public purpose?
2. Is the subsidy actually helping to achieve its goals?
3. Are the benefits, if any, from the subsidy commensurate with its cost?
4. Are the benefits of the subsidy fairly distributed, or are they disproportionately targeted to those who do not need or deserve government assistance?
5. Is the subsidy well-administered?

Few if any business tax subsidies could pass these tests.

Oversight issues: With regard to the fifth point, one might question whether the Internal Revenue Service is ever the appropriate agency to administer a government spending program. After all, the IRS's expertise is in tax collection, not construction or farming or business investment. Would we ask the Energy Department to administer the Social Security system on the side? Would we expect the Defense Department to do a good job running the food stamp program? Does anyone think the Labor Department should be in charge of securities regulation?

To be sure, handing a program to the IRS to run has advantages. The bureaucratic overhead may be fairly low, since the IRS will inevitably devote most of its attention to its main mission of collecting taxes. But the price for that lack of attention may well be inefficiency in the administration of the program. In particular, hugely expensive business tax expenditures purportedly designed to encourage productive investment usually operate with little or no oversight as to whether they are actually achieving their goals. If a direct spending program is failing to achieve its goals, the agency in charge of the program will usually be held accountable. But no one thinks to blame the IRS if the tax-based programs it "administers" prove too costly or fail to work.

Why do many lawmakers find tax subsidies attractive? Poor administration, lack of cost controls, and unhappy distributional results are "features" that are far too typical of tax-based subsidies. Yet despite these obvious drawbacks, many politicians, at both the Federal and state levels, find tax expenditures extremely attractive. One wonders: Do they think poorly administered programs are a good idea? Are they unconcerned about the impact of uncontrolled spending on the budget? Are they unconcerned about the adverse effects on taxpayer confidence in the tax system that tax-subsidy abuses can create? Or do they simply see tax subsidies as a way to exert power over society and the economy without having their efforts show up in the official spending budget?

This last point may be the most important. Because of the way the government's budget books are kept, politicians can have their cake and eat it, too. A direct spending program shows up in the official budget as Federal outlays and the taxes that pay for the program as revenues. But if an equivalent *tax expenditure* program is enacted, paid for with taxes on people and/or companies not benefitted, the combination shows up in the aggregate budget numbers as a wash. Neither net taxes nor spending will appear to go up in the official budget. In recent years, this has made tax subsidies the tool of choice for many lawmakers.

For example, in their 1994 "Contract with America," GOP leaders in Congress talked a lot about cutting spending. But among the most significant specific expenditure changes they proposed in 1995 were more than $100 billion a year in *increased* tax-based spending programs. Ironically, these huge new tax entitlements—mostly targeted to large corporations and the wealthy—were designed to show up in the budget not as additional spending, but as tax cuts. Likewise, in recent years, many of President Clinton's program initiatives have been styled as tax cuts rather than spending.

Ultimately, of course, tax entitlements are not free. As was noted earlier, if all current tax business and investment tax expenditures were suddenly repealed, for example, income tax rates could be reduced across the board by about a sixth. Such a radical step is unlikely, of course. But eliminating or scaling back even some of these kinds of tax entitlements could make a very significant difference in improving tax fairness and easing most people's tax burdens. Such steps would also be likely to improve economic growth to boot, by curbing wasteful tax-sheltering activities and thereby increasing productive market-driven investment.

Most corporate tax subsidies are pure waste. If you think for a minute about how these subsidy programs came into being, then this is quite obvious. Businesses do not lobby the government to tell them what to do. They lobby for subsidies for doing what they already do, and would continue to do anyway. Thus, companies that buy lots of equipment want subsidies for buying equipment. Companies that do lots of research want subsidies for research. Companies with international operations want subsidies for operating internationally. And so forth.

As the House Ways and Means Committee noted in its report on what became the Tax Reform Act of 1986,

> Proponents of massive tax benefits for depreciable property have theorized that these benefits would stimulate investment in such property, which in turn would pull the entire economy into more rapid growth. The committee perceives that nothing of this kind has happened.[4]

To say that most business subsidies pay companies for doing what they would do anyway does not mean, of course, that they have no effect at all. For one thing, their cost means that other taxpayers must pay higher taxes or get lower government services. For example, if the price of business subsidies is less government investment in education, we may all suffer the adverse consequences. Likewise, businesses that get lower subsidies than their competitors may find themselves unfairly disadvantaged in the marketplace.

In addition, even though businesses may not always realize it, subsidies do tend to have at least marginal effects on behavior. But if one believes in free markets, rather than central planning, these tax-induced economic distortions usually tend to be detrimental rather than helpful. As the official report on the 1986 Tax Reform Act notes, in the loophole-ridden era from 1981 to 1985,

> * * * the output attainable from our capital resources was reduced because too much investment occurred in tax-favored sectors and too little investment occurred in sectors that were more productive but which were tax-disadvantaged.[5]

In rarer cases, business subsidies can be so large that they cause large economic shifts. That was the case from 1981 to 1986 in the real estate industry, where lavish tax subsidies caused a huge wave of excess office construction around the country. As the Bush Treasury Department noted in a letter in August 1991:

> Neutral taxation promotes the efficient allocation of investment resources, while the ability to use numerous tax incentives available for real estate prior to the 1986 Act had the opposite effect, the result of which was substantial overbuilding, one of the primary causes of the savings and loan crisis.

Thus, most business tax subsidies are at best pure waste, and even worse, can sometimes cause perverse economic effects.

II. Four Examples of Corporate Welfare in the Tax Code

Let us now turn to a few of the many notable examples of business subsidies in the tax code. I've picked four items to illustrate various "features" of business subsidies:

- Tax breaks that don't work (accelerated depreciation).
- Tax breaks with perverse results (multinational tax preferences).
- Tax breaks with little oversight (R&E credit).
- Tax breaks with virtually no justification at all (business meal deductions).

I should emphasize that all of these share common defects with one another.

1. ACCELERATED DEPRECIATION

Accelerated depreciation rules allows businesses to write off their purchases of machinery, equipment and buildings for tax purposes faster than the assets actually wear out. Special tax breaks for business capital outlays entered the tax code in the sixties, and were enlarged in various ways thereafter. The process reached its apotheosis in the major expansion of depreciation write-offs included in President Reagan's 1981 tax cut act.

With the 1981 act, the tax-shelter floodgates opened. By 1983, studies by Citizens for Tax Justice found that half of the largest and most profitable companies in the

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[4] Ways and Means Committee Report on H.R. 3838, the Tax Reform Act of 1985 (which became the Tax Reform Act of 1986), pages 145-46.

[5] Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986 (May 4, 1987), p. 98.

nation had paid no Federal income tax at all in at least one of the years the depreciation changes had been in effect. More than a quarter of the 250 well-known companies surveyed paid nothing at all over the entire 3-year period, despite $50 billion in pretax U.S. profits. General Electric, for example, reported $6.5 billion in pretax profits and $283 million in tax rebates. Boeing made $1.5 billion before tax and got $267 million in tax rebates. Dupont's pretax profits were $2.6 billion; after tax it made $132 million more. CTJ's findings were similar in 1984, 1985 and 1986.

In response to public clamor, his own newfound misgivings and the disappointing economic results of the 1981 corporate tax incentives, President Reagan helped lead the fight for the loophole-closing Tax Reform Act of 1986. The 1986 act greatly scaled back depreciation and other tax breaks for business property. The changes curbed corporate tax avoidance opportunities and made taxpayers out of most of the former corporate non-payers.

While companies paid more in taxes after 1986, however, business investment flourished. As former Reagan Treasury official, J. Gregory Ballentine, told *Business Week:* "It's very difficult to find much relationship between [corporate tax breaks] and investment. In 1981 manufacturing had its largest tax cut ever and immediately went down the tubes. In 1986 they had their largest tax increase and went gangbusters [on investment]."

Despite its advances, the 1986 Tax Reform Act did not end corporate depreciation subsidies. Even today, businesses are allowed to write off the cost of their machinery and equipment considerably faster than it actually wears out—a subsidy estimated by the Joint Committee on Taxation to cost $37 billion in fiscal 2000.

Moreover, when equipment is purchased with borrowed money, the current tax system produces outright "negative" tax rates—making such investments more profitable after tax than before tax! As a result, corporate buying and selling of excess tax breaks through equipment "leasing" deals have remained widespread. Indeed, leasing tax shelters received a substantial boost from legislation enacted in 1993 and 1997. These acts substantially gutted the 1986 reforms that had curbed excess depreciation of debt-financed capital outlays (as in common with leasing). As is well-known to tax professionals, the combination of debt-financing and accelerated depreciation typically produces negative tax rates. To curb such tax shelters, the 1986 act set lower depreciation write-offs under the Alternative Minimum Tax. Unfortunately, the 1986 AMT depreciation reforms have been repealed.

One can see examples of the sometime startling effects of the accelerated depreciation rules by a quick perusal of corporate annual reports. For example, in 1995, Eastman Kodak paid an effective Federal tax rate of only 17.3 percent—less than half the 35 percent statutory corporate tax rate—mainly because of $124 million in tax subsidies from accelerated depreciation. Accelerated depreciation was one of the key reasons why American Home Products paid only a 15.6 percent tax rate on its $4.2 billion in U.S. profits from 1992-94. Allied Signal got $51 million in accelerated depreciation tax breaks in 1995, helping it pay a tax rate of only 10.7 percent on its $3.4 billion in U.S. profits over the past 4 years. And General Motors received tax *refunds* totaling almost $1.4 billion dollars in 1995 and 1996, despite reported U.S. profits of $5.2 billion, apparently in large part due to depreciation tax breaks generated by its leasing activities.

Economists also complain—rightfully—that accelerated depreciation often skews investment decisions away from what makes the most business sense and toward tax-sheltering activities. This can, for example, favor short-term, tax-motivated investments over long-term ones.

With its huge cost, minimal direct value to most people and sad economic record, accelerated depreciation might seem to have little going for it. Yet several recent proposals would expand depreciation tax subsidies far beyond even their current levels. The GOP's 1995 "Contract With America" originally included a $30-billion-dollar a year super-accelerated depreciation plan promoted by Budget Committee Chairman John Kasich (R-Ohio) that would have let companies write off more than they actually spent buying new equipment. A conceptually similar increase in depreciation write-offs is a key feature of the "flat tax" proposed by Rep. Dick Armey (R-Tex.) and endorsed by presidential candidate Malcolm S. Forbes, Jr. and former Rep. Jack Kemp.

Nevertheless, curbing or eliminating accelerated depreciation should be at the top of the list for those who really believe in attacking corporate welfare and curbing government waste.

2. TAX BREAKS FOR MULTINATIONAL CORPORATIONS

Multinational corporations, whether American- or foreign-owned, are supposed to pay taxes on the profits they earn in the United States. In addition, American com-

panies and individuals aren't supposed to gain tax advantages from moving their operations or investments to low-tax offshore "tax havens." But our tax laws often fail miserably to achieve these goals.

For example, IRS data show that foreign-owned corporations doing business here typically pay far less in U.S. income taxes than do purely American firms with comparable sales and assets.[6] The same loopholes that foreign companies use are also utilized by U.S.-owned multinationals, and even provide incentives for American companies to move plants and jobs overseas.

The problems in our taxation of multinational companies stem mainly from the complicated, often unworkable approach we use to try to determine how much of a corporation's worldwide earnings relate to its U.S. activities, and therefore are subject to U.S. tax. In essence, the IRS must try to scrutinize every movement of goods and services between a multinational company's domestic and foreign operations, and then attempt to assure that a fair, "arm's length" "transfer price" was assigned (on paper) to each real or notional transaction.

But companies have a huge incentive to pretend that their American operations pay too much or charge too little to their foreign operations for goods and services (for U.S. tax purposes only), thereby minimizing their U.S. taxable income. In other words, companies try to set their "transfer prices" to shift income *away* from the United States and shift deductible expenses *into* the United States. A 1992 Congressional Budget Office report found that "[i]ncreasingly aggressive transfer pricing by * * * multinational corporations" may be one source of the shortfall in corporate tax payments in recent years compared to what was predicted after the 1986 corporate tax reforms. Variants on the transfer-pricing problem—such as ill-advised "source" rules and statutory misallocations of certain kinds of expenses—expand the tax avoidance opportunities.

- Let's say a big American company has $10 billion in total sales—half in the U.S. and half in Germany—and $8 billion in total expenses—again half and half (in reality). With $1 billion in actual U.S. profits and a 35 percent tax rate, the company ought to pay $350 million in U.S. income taxes. But suppose that for U.S. tax purposes, the company is able to treat 5/8th of its expenses—or $5 billion—as U.S.-related. If you do the arithmetic, you'll see that leaves it with zero U.S. taxable profit. Although our tax system has rules to mitigate this kind of abuse, companies still have plenty of room to maneuver.
- Here's a real-world example: In its 1987 annual report to its stockholders, IBM said that a third of its worldwide profits were earned by its U.S. operations. But on its Federal tax return, IBM treated so much of its R&D expenses as U.S.-related that it reported almost no U.S. earnings—despite $25 billion in U.S. sales that year. As a result, IBM's Federal income taxes for 1987 were virtually wiped out.
- A few years ago, Intel Corp. won a case in the Tax Court letting it treat millions of dollars in profits from selling U.S.-made computer chips as Japanese income for U.S. tax purposes—and therefore exempt from U.S. tax—even though a tax treaty between the U.S. and Japan requires Japan to treat the profits as American—and therefore exempt from Japanese tax! As too often happens, the profits thus became "nowhere income"—not taxable anywhere.

The official list of tax expenditures in the international area—totaling $13.5 billion in fiscal 2000—focuses on congressionally-enacted loopholes in the current "transfer pricing" approach. Thus, the list includes items such as indefinite "deferral" of tax on the profits of controlled foreign subsidiaries, misallocations of interest expenses, "source" rules that treat certain kinds of U.S. profits as foreign, and the Puerto Rican "possessions tax credit."[7] This list understates the total tax subsidies to multinational companies, however, because it does not challenge the basic, flawed approach to taxing multinationals that we current use.

To be sure, curbing the multinational tax breaks identified in the official list would be a good idea. But an even better approach would be to replace the current, complex "transfer pricing" rules with a much simpler formula approach that taxes international profits based on the share of a company's worldwide sales, assets and payroll in the United States, as Senator Byron Dorgan (D-N.D.) has suggested. Ex-

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[6] See U.S. General Accounting Office, Foreign- and U.S.-Controlled Corporations That Did Not Pay U.S. Income Taxes, 1989-95 (March 1999). According to GAO's analysis, the 15,363 large American companies studied paid an average of $8.1 million in Federal income taxes in 1995. In contrast, the 2,767 foreign-controlled corporations paid an average of only $4.2 million in Federal income taxes that year—only half what the U.S. companies paid. This was true even though the average amount of gross receipts reported by the foreign-controlled companies was actually slightly larger than the amount reported by the American firms.

[7] The official tax expenditure list also includes a tax exemption for most income earned by Americans working abroad. Although this item is treated as a personal tax expenditure, multinational companies say that it primarily benefits them by allowing them to pay lower wages.

actly how much revenue could be gained by this kind of comprehensive international tax reform is unclear, but some estimates are on the order of $20-35 billion annually.

Yet when proposals are made for even modest changes in the tax breaks for multinational corporations, Congress, in the face of overwhelming lobbying pressure from multinational companies, has resisted. President Clinton pledged major international tax reforms in his 1992 campaign, but Congress rejected even the rather timid changes he proposed in 1993. The President's 1997 budget proposed $6.3 billion in international tax reforms over the 1997-2002 period, but most of these were rejected as well. Likewise, when the Treasury Department discovered in late 1997 that it had itself inadvertently opened a major new multinational loophole by an ill-advised tax regulation and proposed to correct its mistake, Congress barred implementation of the correction (at least temporarily).

The very idea that our tax laws favor multinational corporations, including foreign owned ones, over purely domestic U.S. businesses should upset all of us.

3. THE RESEARCH AND EXPERIMENTATION TAX CREDIT

The tax credit for research and experimentation was first enacted in 1981. It supplements the already extremely favorable tax treatment of research and development investments, which can be deducted immediately, rather than capitalized and deducted over time, as is the case with business investments in tangible capital assets.

The stated purpose of the R&E credit is to encourage business research that would otherwise not be undertaken because other investment opportunities would be more profitable. One has to wonder why Congress thinks it is appropriate to interfere with marketplace decisions in this way. In any event, up until now, the distorting effects of the R&E credit have been fairly small. That's in part because, due to budget constraints, over its lifetime, the R&E credit has mainly subsidized research that was already planned or completed (that is, it has generally been extended for short periods, usually retroactively).[8]

The R&E tax credit has been modified many times over the years, in part to try to restrict its application to real scientific research (rather than, say, development of an improved Chicken McNugget). Recently, the IRS proposed a regulation to implement congressional intent in this regard by requiring, among other things, documentation of scientific purpose and methods for "research" investments to qualify. The proposed regulation has caused a firestorm of complaints from the affected companies.

Yet it is quite clear that when the government subsidizes *basic* scientific research (which the market arguably does neglect) through direct spending programs it explicitly requires a showing by prospective grantees that a real scientific approach and purpose will be utilized. Thus, lobbyists who argue for a looser standard for the R&E tax credit and who argue that the IRS has "little understanding of the way technology companies work"[9] are implicitly endorsing a common defect of tax-based subsidies: the lack of oversight by a qualified agency. We would not tolerate such a lack of oversight in the case of direct spending. Why are we so tolerant in the case of a tax-based subsidy?

Useful business research is undeniably a good thing. But so are many other business activities. Research is also highly profitable, especially in our technology-dominated world. There is no reason why Congress should try to encourage such investments (at the expense of alternative investments) when they are not otherwise profitable.

4. BUSINESS MEALS AND ENTERTAINMENT SUBSIDIES

Under current law, spending on meals that bear a "reasonable and proximate relationship to a trade or business" and are "conducive to a business discussion" are both 50 percent deductible and excluded from the income of the recipients. There's no requirement that business actually be discussed, either before, during or after

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[8] Some companies that take advantage of the R&E credit admit the obvious: that they would do extensive R&E even without a subsidy. For example, Applied Materials, which is lobbying for an extension of the R&E credit, notes in a filing with the SEC: "Applied Materials' long-term growth strategy requires continued development of new semiconductor manufacturing technology. The Company's significant investment in research, development and engineering (RD&E) has generally enabled it to deliver new products and technologies before the emergence of strong competition." The semiconductor maker reports $8 million in R&E tax credits in 1998. See "Does high-tech research require a tax break? Multi-billion dollar firms get a tax break and almost nobody is complaining," by David Bowermaster, MSNBC, Mar. 12, 1999.

[9] See BNA Daily Tax Report, Apr. 28, 1999, p. G-5.

the meal. Likewise, entertainment outlays—for golf, hockey tickets, etc.—are 50 percent deductible if the taxpayer has more than a general expectation of deriving income or a specific trade or business benefit (other than goodwill) from the activity, or more liberally, if the entertainment is directly preceded or followed by a substantial and bona fide business discussion. Such a discussion does not have to occur on the same day as the entertainment, nor does it have to last as long.

The problem is not merely that these rules are hopelessly open to abuse—although of course they are. The fundamental problem is that no matter what the technical rules, the deduction/exclusion for meals and entertainment is considered by almost every disinterested analyst as an abuse of good tax policy. Recognizing this fact, defenders of write-offs for business meals and entertainment generally do not focus on tax policy issues. Instead, they attempt to defend the $6.6 billion annual cost of these deductions as justifiable government subsidies to the restaurant, resort and entertainment industries.

Now if one were to make a list of government spending priorities, a subsidy for business men and women's eating, drinking and entertainment would seem to be very near, if not at, the bottom of the list. (Perhaps subsidizing business people's purchases of jewelry or furs would rank even lower.) So how can we possibly justify higher taxes on the general public or reductions in important government services to fund such a peculiar entitlement program?[10]

III. CONCLUSION

The notion that many of the provisions of the Internal Revenue Code are really hidden spending programs is a well-known fact to the special interest groups that lobby for the loopholes. Indeed, these interests usually prefer to get their subsidies through the tax laws—not only because the benefits are disguised, but because once enacted, they typically remain in the law as permanent entitlements.

At a time of intense, critical scrutiny on direct government programs, it's especially important to focus on the hundreds of billions of dollars in "hidden entitlements" buried in the tax code. Far too many of these tax subsidies amount to welfare for corporations and the rich. They often involve the government in what it usually does not do well—trying to make decisions for businesses, investors and consumers—and as a result, they harmfully distort private economic choices. Their huge cost crowds out funds for what the government ought to be doing better—building the roads, promoting education, stopping crime, protecting the environment and so forth. And they make our tax laws much too complex.

In short, while not all "tax expenditures" are evil, many of them undermine tax fairness, impede economic growth and divert scarce tax dollars away from better uses. If we hope to "reinvent government" to make it more effective and less burdensome—in short, a better deal for ordinary American families—then scaling back wasteful and pernicious tax loopholes should be at the top of the agenda.

Chairman KASICH. Thank you, Mr. McIntyre.

Mr. Moore is recognized.

STATEMENT OF STEPHEN MOORE

Mr. MOORE. Thank you, Chairman Kasich, and thank you for your heroic efforts over the last several years in shrinking the corporate welfare safety net. You have been a warrior on this issue with some of the others on this committee, and I want to commend you for the service you have done for taxpayers on this issue. I also want to applaud Mr. Nader for his astounding testimony. I believe what his testimony shows is that there is a bipartisan on this issue of cutting corporate welfare subsidies, and I look forward to working with him on this issue.

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[10] Lobbyists for the business meals deduction have recently come up with a novel argument for actually expanding their subsidy. They maintain that if the government decides to increase the minimum wage for low-income workers, then it's only fair to do something for better-off business people, too. As the Washington Post (May 3, 1999, p. A2) reports, in connection with the proposed increase in the minimum wage, "table-service restaurants want to increase the business meal tax deduction from 50 percent to 80 percent. That change * * * would affect eateries ranging from elegant Washington bistros to hotel and chain restaurants across the country, could cost $3 billion."

In keeping with the truth in testimony requirements, let me say that neither I nor the CATO Institute receives a penny of government money nor do we want any of your money.

Let me start by making just a couple of observations about the corporate welfare state and then give you some recommendations about how we might try to win on this issue. First, we have found in our studies at the CATO Institute that corporate welfare is an enormous and growing component of the Federal budget. Our latest study finds that there are about $75 billion in spending subsidies per year. They are distributed through about 125 different programs through eight cabinet departments. You would unfortunately be hard pressed these days to find a single Fortune 500 company that is not a recipient of at least one of these programs.

Interestingly enough, about 90 percent of small businesses in America receive none of this money. So this is really a David v. Goliath issue where all of the money is going to Goliath.

I believe that the problem is not tax loopholes, as the previous commenter said. I believe the problem is the spending programs. I don't think that corporate America is undertaxed. I think corporate America is overtaxed. I think corporate America is paying far too much taxes, $200 billion a year, and I think we would be much better off if we let corporations spend their own money rather than sending it to Washington and then distributing it back to them.

By the way, just in the last year's budget, we found that corporate welfare was up 2 percent and if you look at President Clinton's budget, unfortunately he proposes about a 9 to 10 percent increase in corporate welfare spending programs.

One other quick point on this is I know you are embroiled right now in a big controversy about whether we have to bust these supposedly tight spending caps. It seems absurd to me that we would be talking about busting spending caps when we have $75 billion, and almost all of this program, Chairman Kasich, is in the domestic discretionary component of the budget. Some of it is also in the defense budget. We should certainly be able to find a savings out of the defense and domestic spending areas so that we don't have to bust these spending caps.

Second point, companies are double and triple dipping. Let me give you some examples. We found that General Electric in 1995 received 15 different corporate welfare grants to the tune of $20 million. We found that Rockwell received 39 corporate welfare grants to the tune of $25 million.

We found Westinghouse dipped 14 times into the public trough to the tune of $26 million. These are all companies that had more than $500 million in profits in the year that we were handing them out, at least $20 million in grants.

By the way, you were asking about what we could do to improve our ability to get rid of these programs. It is very hard to find out how much various companies are getting in these corporate welfare grants and we ought to have some type of procedure where companies are required if they are going to receive these grants to declare to Congress how much money they are getting from all of these different sources.

A third point, corporate welfare cuts should offset pro growth tax cuts. We have to bring down the enormous tax burden in this country. Proponents of corporate welfare say these programs create jobs. They say these programs help industry. Now, I like to use the example of someone like my father who was in the export business for 40 years as a small businessman and you know how many times in his 40-year business life that he came to Washington? Zero. He never stepped foot in this town, as most small businessmen never do. Most small businessmen don't have corporate lobbyists to chase down these grants for them and it is only the powerful companies that get these kinds of money, and yet I think of someone like my father who paid a lot of taxes over his years as a businessman and he had to pay taxes so some of that money could be used to essentially subsidize his competitors.

Interestingly enough, if you look at the kind of strategy that we are pursuing when we pursue corporate welfare subsidies, this is really the Japan and Europe model of industrial policy. I remember 5 or 6 years ago when we first started talking about this, people were applauding the Japanese model as the model we ought to be imitating. Clearly we want to do anything but imitate the Japan model.

Finally, let me say that you were very interested in some kind of strategies that we could use to eliminate corporate welfare and I have come up with a few that I think that you will like.

First, I think that we ought to look at a program where we have a corporate welfare commission, as the previous panel discussed. You know in the past I have been opposed to this because I thought Congress should be able to make these cuts themselves. Unfortunately, the last 5 years have proven Congress will not make these cuts themselves and I have come to the unfortunate conclusion that we probably do need a corporate welfare elimination commission model modelled on the Base Closing Commission and we ought to tell that commission to come up with at least $20 billion a year in savings.

Second of all, let's eliminate double dipping. Let's basically say to General Electric and General Motors one per customer, one grant per customer and that is it.

Third, time limits. As you know, Chairman Kasich, when we passed welfare reform back in 1996, I believe it was, we basically established a very sensible policy that said 2 years and then off. You can stay on the dole for 2 years but then we expect you to become self-sufficient. Why can't we do this with America's largest companies to say you can get these grants for 2 years but no more than 2 years. If welfare moms can do it, big business can too.

Next, and I think this would be a very hard thing to resist, why don't we have a policy that says basically that any individual or any business that has an income over $1 million is not eligible for any government subsidy. I think that this would be something that would be hard for anybody on the left or the right to resist.

So let me simply summarize by saying that I think cutting corporate welfare and getting business off the dole is pro fairness, is pro growth, and is pro business and will make our industry stronger, not weaker. Thank you.

[The prepared statement of Mr. Moore follows:]

PREPARED STATEMENT OF STEPHEN MOORE, DIRECTOR OF FISCAL POLICY STUDIES, THE CATO INSTITUTE

Thank you Chairman Kasich for the opportunity to testify before the Budget Committee on the issue of corporate welfare in the Federal budget. You and a handful of other members on this Committee are among the few Members of Congress who have made a valiant effort to reduce Federal taxpayers subsidies to business. Before I begin my testimony, I will state for the record in accordance with the Truth in Testimony requirement that neither I, nor the Cato Institute, receive any government funding.

I have divided my testimony on corporate welfare into 12 summary points: 6 observations of Congress and 6 recommendations regarding how Congress can reduce the size of the corporate welfare state.

1. *The corporate welfare state in Washington is a large and growing component of the Federal budget.* America's most costly welfare recipients today are Fortune 500 companies.[1] In 1997 the Fortune 500 corporations recorded best-ever earnings of $325 billion, yet incredibly Uncle Sam doled out nearly $75 billion in taxpayer subsidies.[2] These welfare payments come in every conceivable shape and size, including government grants, contracts, cut rate insurance, loans, and loan guarantees. There are roughly 125 such business subsidy programs in the Federal budget and they can be found in virtually every cabinet agency of the government—including the Defense Department.

Our latest survey of the corporate welfare subsidy programs finds that, although congressional Republicans had pledged an attack against unwarranted business subsidies back in 1995, these programs have actually expanded by 10 percent on average over the past 4 years. The Table below shows the budgets for 60 of the most egregious examples of corporate welfare in 1998 and 1999.

TABLE 1.—HOW SOME OF THE WORST CORPORATE WELFARE PROGRAMS FARED UNDER THE GOP CONGRESS

(Millions of dollars)

Program/Agency	1998 Actual	1999 Estimated	Percent change 98–99
Agriculture Department:			
Agricultural Credit Insurance Fund	$638.0	$353.0	−45%
Agricultural Marketing Service	41.0	43.0	5%
Agricultural Research Service	768.0	874.0	14%
Commodity Credit Corporation Export Loans Program	263.0	449.0	71%
Conservation Reserve Program	1,760.0	1,576.0	−10%
Cooperative State Research, Education, and Extension Service	904.0	928.0	3%
Economic Research Service	55.0	55.0	0%
Export Enhancement Program	350.0	550.0	57%
Federal Crop Insurance Corporation	1,031.0	1,303.0	26%
Foreign Agricultural Service	157.0	137.0	−13%
Market Access Program	92.0	89.0	−3%
National Agricultural Statistics Service	124.0	102.0	−18%
Public Law 480 Grants	794.0	932.0	17%
Rural Community Advancement Program	580.0	759.0	31%
Rural Business-Cooperative Service (RBCS)	65.0	77.0	18%
Commerce Department:			
Economic Development Administration	385.0	438.0	14%
Advanced Technology Program (Budget Authority)	193.0	231.0	20%
Manufacturing Extension Partnership (Budget Authority)	114.0	128.0	12%
International Trade Administration	303.0	273.0	−10%
Minority Business Development Agency	28.0	32.0	14%
National Oceanic and Atmospheric Administration: nonweather activities	1,047.0	1,076.0	3%
Defense Department:			
Army Corps of Engineers	3,845.0	4,209.0	9%
Research, Development, Test, and Evaluation: applied R&D program			
Advanced Electronics Technologies R&D[1]	299.0	264.0	−12%
Commercial Technology Insertion Program[1]	20.0	0.0	−100%
Computing Systems and Communications Technology R&D[1]	327.6	331.3	1%

[1] Stephen Moore and Dean Stansel, "Ending Corporate Welfare as We Know It," Cato Institute Policy Analysis, 1995.

[2] Fortune, April 27, 1998, p. 216.

TABLE 1.—HOW SOME OF THE WORST CORPORATE WELFARE PROGRAMS FARED UNDER THE GOP CONGRESS—Continued

(Millions of dollars)

Program/Agency	1998 Actual	1999 Estimated	Percent change 98–99
Dual Use Applications programs [1]	125.0	36.0	−71%
Electric Vehicles [1]	0.0	9.0	100%
Materials and Electronics Technology R&D [1]	237.7	278.0	17%
Next Generation Internet [1]	42.0	50.0	19%
Energy Department:			
Energy Conservation programs	621.0	560.0	−10%
Energy Information Administration	63.0	70.0	11%
Energy Supply Research programs	1,241.0	883.0	−29%
Fossil Energy Research and Development	351.0	370.0	5%
Science programs	2,239.0	2,534.0	13%
Power Marketing Administrations	70.0	185.0	164%
Interior Department:			
Bureau of Reclamation	786.0	1,143.0	45%
Transportation Department:			
Commercial Space Transportation Office	6.0	7.0	17%
Federal Highway Administration: earmarked demonstration projects	405.0	450.0	11%
Grants-in-Aid for Airports	1,511.0	1,670.0	11%
Maritime Administration: Guaranteed Loan Program	13.0	60.0	33%
Maritime Administration: Operating-Differential Subsidies	37.0	19.0	−49%
Maritime Administration: Ocean Freight Differential	19.0	24.0	26%
Maritime Security Program	81.0	98.0	21%
Essential Air Service program (Payments to Air Carriers)	37.0	50.0	35%
Independent Agencies and Other:			
Appalachian Regional Commission	188.0	151.0	−20%
Export-Import Bank	718.0	799.0	11%
NASA/Aeronautical Research and Technology activities	920.0	786.0	−15%
National Science Foundation: HIgh Performance Computing and Communications	265.0	301.0	14%
Overseas Private Investment Corporation	105.0	127.0	21%
Partnership for a New Generation of Vehicles	220.0	240.0	9%
Small Business Administration	1,066.0	12.0	−99%
Tennessee Valley Authority—Area and Regional Development	94.0	53.0	−44%
Trade and Development Agency	50.0	60.0	20%
Total	$25,694.3	$26,234.9	2%

[1] Numbers are from the respective appropriations bills.

Source: Budget of the U.S. Government, FY 2000.

Clearly, whatever strategies we have tried to employ to curtail corporate welfare spending have not worked very successfully. New tactics to take on the corporate beneficiaries of Federal subsidies are unquestionably necessary.

2. *Almost all of the most egregious subsidies are in the forms of Federal expenditures, not tax loopholes.* If Congress is serious about weaning businesses from Federal subsidies, it should concentrate on eliminating the Departments of Commerce and Energy, the Export Import Bank, the International Monetary Fund and the World Bank, farm subsidies, and OPIC. These spending programs not only cost taxpayers money directly, but also create an unhealthy corporate dependence on Federal subsidies. Yes, there are unfair provisions of the tax code that benefit some businesses and industries more than others. Congress should overhaul the entire income tax system to eliminate those unjustified tax breaks.

3. *Many Fortune 500 companies are double and triple dippers.* All but a small handful of America's most profitable corporations have participated in the hunt for Federal or state government subsidies. Most of these companies are double-, triple-, and quadruple-dipping. In 1996 General Electric Co. won 15 grants for $20.1 million. Rockwell International received 39 grants for $25.4 million. Westinghouse Electric Corp. received 14 grants for $26.1 million. Yet each of these companies had profits of at least half a billion dollars that year.

4. *There are no time limits for corporate welfare benefits.* In the mid-1990's Congress and the states—at the urging of the American people—enacted major reforms in social welfare programs. There are now time limits on welfare benefits. Work, training, or education is now typically required in exchange for benefits. The result:

welfare rolls are down by 40 percent over the past 5 years and record levels of former-recipients now working and paying taxes, not collecting them.

None of this reform ethic has taken root in the realm of corporate welfare. There is no plan in Congress or the White House to attack business subsidies. In fact, the business community has come to regard subsidy payments as de facto entitlements. There is no "two years and off" time limit when it comes to corporate hand-outs.

5. *If all corporate welfare were eliminated, the savings would be large enough to entirely eliminate the capital gains tax or the death tax.* Private industry recipients of corporate welfare typically boast of the jobs that they create with their Federal grant payments. It makes sense that if Congress gives General Electric a cash payment, they may use those dollars for socially useful purposes. But the real issue with corporate welfare is what are the opportunity costs associated with the $75 billion a year in corporate subsidies. The Table below shows a sample of the types of pro-growth tax reduction initiatives that Congress could afford to undertake without adding a penny to the Federal debt, if corporate welfare were entirely ended.

- We could cut the personal income tax, the corporate income tax, or the payroll tax.
- We could entirely abolish the capital gains tax or the death tax.
- We could help finance a flat tax at a rate of 20 percent for all Americans.

Those in the business community who contend that corporate subsidies add to America's competitiveness and industrial might, must answer the following question: Do you really believe that these programs add more wealth, jobs, or venture financing for the American economy than would entirely eliminating the capital gains tax or adopting a low-rate flat tax that ends all punitive tax treatment of savings? Very few could honestly answer that question in the affirmative.

TABLE 2.—WHAT $75 BILLION IN ANNUAL CORPORATE WELFARE SAVINGS WOULD BUY

Corporate welfare alternatives	Annual cost
Eliminate Capital Gains Tax	$70 billion
Eliminate the Death Tax	$25 billion
Cut Corporate Tax from 35 percent to 25 percent	$65 billion
Cut All Personal Income Tax Rates by 10 Percent	$74 billion
Establish 20 Percent Flat Tax	$65 billion
3 Percentage Point Cut in Payroll Tax	$70 billion

Source: Budget of the United States Government, Fiscal Year 1999.

6. *Corporate welfare corrupts the political process.* A recent front page story in the Washington Post notes that Microsoft, which until recently had no Washington office, now spends tens of millions of dollars a year on lobbyists, p.r. firms, and lawyers to protect itself from Washington. These millions of dollars would clearly benefit consumers, taxpayers, and Microsoft shareholders if they were used to build better software, not on lobbying Congress. Yet, one result of the modern corporate welfare state is that industries must almost all have a "presence" in Washington.

One perverse, but predictable outcome of a $100 billion-plus corporate welfare state is that industry begins to view Congress, rather than consumers, as their real customers. Firms begin to produce for government, not the market. Corporate welfare, notes Wall Street financier Theodore J. Forstmann, has led to the emergence of the "statist businessman in America."[3] The statist businessman is "a conservator, not a creator; a caretaker, not a risk taker; an argument against capitalism even though he is not a capitalist at all."[4]

Again, the sugar program is illustrative. In 1995 the program was under assault. It appeared that the anti-corporate welfare forces, would finally win a high profile fight on behalf of taxpayers and consumers. On the day of the vote on the House floor, big sugar prevailed by just three votes. It turned that 4 Members of Congress who were original co-sponsors of the legislation to kill the sugar subsidies voted against their own bill! Big sugar had provided hundreds of thousands of dollars of campaign contributions, with about a ten to one ratio going to members who voted for the price supports versus those who voted against them. The Fanjul family, owners of several large sugar farms in the Florida Everglades, captures an estimated $60 million a year in artificial profits thanks to price supports and import quotas. The Fanjuls are fierce defenders of the sugar program and to protect the cash cow,

[3] Theodore J. Forstmann, "The Paradox of the Statist Businessman," Speech before the Cato Institute, February, 1995.

[4] ibid.

since 1992 this one family has contributed more than $350,000 to political campaigns.[5]

Myths of the Corporate Welfare State

Despite the quite substantial costs of Federal business subsidies, the efforts of a wide ideological spectrum of organizations like PPI, Cato, the National Taxpayers Union, some environmental groups, and even the Nader organizations to stop corporate welfare has been largely unsuccessful. As I told a Wall Street Journal reporter not long ago: "We fought a war against corporate welfare, and corporate welfare won."

The failure can be explained by the fact that the proponents of these subsidies continue to perpetuate myths about the benefits of the government-industry partnership model. The following is a restatement and refutation of those prevalent myths of corporate welfare:

1. The Federal Government can pick industrial winners and losers. The function of private capital markets is to direct billions of dollars of capital to industries and firms that offer the highest potential rate of return. The capital markets, in effect, are in the business of selecting corporate winners and losers. Capitalists put at risk their own money. With trillions of dollars now invested every year by Americans, the U.S. now has the most efficient capital markets in the world.

The underlying premise of Federal business subsidies is that the government can direct capital funds more effectively than can venture capitalists and private money managers. But decades of historical experience prove that government agencies have a much less successful track record than do private money managers of correctly selecting winners. Example: the average delinquency rate is almost three times higher for government loan programs (8 percent) than for commercial lenders (3 percent).[6] The Small Business Administration delinquency rates reached over 20 percent in the 1980's; the Farmers Home Administration delinquency rate has approached 50 percent.[7] The Federal Housing Administration's default rate is 8 percent versus a 3 percent industry-wide average for private mortgage insurers.

Corporate welfare supposedly offers a positive long-term economic return for taxpayers. But the evidence shows that government "investments" have a low or negative rate of return. In the late 1960's the Federal Government spent nearly $1 billion on the Super Sonic Transport (SST), which experts in Washington expected would revolutionize air travel. Instead the plane went bankrupt and never flew a single passenger. In the late 1970's the Federal Government spent more than $2 billion of taxpayer money on the Synthetic Fuels Corporation—a public-private project that Department of Energy officials thought would provide new sources of energy for America in the 1980's. The SFC was closed down in the 1980's, having never produced a single kilowatt of electricity.

2. Corporate welfare promotes American competitiveness. Business subsidies, which are often said to be justified because they correct distortions in the marketplace, create huge market distortions of their own. The major effect of corporate subsidies is to divert credit and capital to politically well-connected firms at the expense of their less politically influential rivals. This is precisely what Japan has found during it economic collapse over the past 6 years. In Japan the myth of industrial policy as a competitiveness strategy has led to a 60 percent reduction in the value of Japanese stock market since 1991.

Although it is said that corporate subsidies are necessary so that U.S. firms can compete with their subsidized rivals in other nations, more than 90 percent of American businesses manage to stay in business without ever receiving government grants, loan guarantees, insurance, or airplane seats on Commerce Secretary Bill Daley's trade missions around the globe. But they pay higher taxes, which lowers their competitiveness, to support those businesses that do.

Agricultural price supports are a case in point. Farm programs are alleged to be critical to the survival of American farmers. The truth is that of the 400 classified farm commodities, about two dozen receive more than 90 percent of the assistance funds.[8] Over 80 percent of the subsidies enrich farmers with a net worth of more than half a million dollars.[9]

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[5] Rich Lowry, "The Undeserving Rich," National Review, December 31, 1994, pp. 21-22.

[6] U.S. General Accounting Office, "Debt Collection: Information on the Amount of Debts Owed the Federal Government," December, 1985.

[7] David F. Linowes, Privatization: Toward More Effective Government, Report of the President's Commission on Privatization, (Urbana, Illinois: University of Illinois Press, 1988), pp. 41-42.

[8] Stephen Moore, Slashing the Deficit, The Heritage Foundation, Washington, D.C., 1990.

[9] For a critique of the Federal farm subsidies, see: Jim Bovard, The Farm Fiasco, 1991.

Given that there are more than 1 million small and large businesses in the U.S. today, the subsidies approach to prosperity is utterly futile. The only effective way to enhance the competitiveness and productivity of American industry is to create a level playing field, which minimizes government interference in the marketplace and substantially reduces tax rates and regulatory burdens. All of the Federal Government's efforts to promote the big three U.S. automobile companies are inconsequential compared with the regulatory burden on that industry, which now adds an estimated $3,000 to the cost of a new car.[10]

3. Government and industry partnerships should be encouraged. Government and politics are, alas, inseparable. Much of what passes today as benign industrial policy is little more than a political payoff to favored industries or businesses. Taxpayer dollars that subsidize private firms are routinely rerouted to Washington in the form of political contributions and lobbying activities to secure even more tax dollars. Cash-in; cash-out. For example, the outdated Rural Utility Services survives primarily because of the lobbying efforts of the National Rural Electrical Cooperative Association in America. With a $78 million budget, that association is one of the most influential and heavily financed lobbying groups in Washington.[11]

During the 1992 presidential campaign Vice President Dan Quayle traveled to Michigan to announce a $250 million plan to upgrade the M-1 tank—which happens to be built by General Dynamics in Sterling Heights, Michigan.[12] Before the campaign the Bush administration had argued convincingly that in the post-Cold War era the more expensive tank was unnecessary.

Many of the top recipients of technology research grants awarded by the Clinton administration were also substantial contributors to the Clinton-Gore campaign or the Democratic National Committee. For example, Table 3 lists ten Fortune 500 firms that were multi-million dollar award winners of the Advanced Technology Program or the Technology Reinvestment Project in 1994 that were also large Democrat and Republican campaign contributors, according to FEC data compiled by Common Cause. (Almost all firms that chase corporate welfare dollars hedge their bets by giving to both parties. In Washington, the way to gain a "seat at the table" is to contribute bipartisanly. Industry learns the rules of engagement in Washington quickly: giving to both parties is tolerated; giving to neither is not.) In sum, corporate welfare programs often put our government programs up to sale to the highest bidder.

TABLE 3.—CASH IN, CASH OUT

Company	Campaign contributions		1994 Grant awards (millions[1])	
	1992	1994	TRP	ATP
AT&T[2]	$30,000	$60,000	$1.9	$8.2
Boeing	.....	127,000	44.2	6.0
Chevron	61,000	159,000	.....	16.6
Exxon	.....	60,000	.....	16.6
General Electric	46,000	107,000	.....	21.8
IBM	[3] 150,000	.....	78.5	9.4
McDonnell Douglas	43,000	59,000	1.5	5.3
Shell	65,000	.....	.....	16.6
Texaco	22,000	.....	.....	16.6
United Technology Corp.	41,000	.....	24.6	.....
Total	458,000	572,000	.....	.....

[1] TRP stands for Technology Reinvestment Program. ATP stands for Advanced Technology Program. Grant award figures are total amount per contract. Some of the funds were distributed to subcontractors.
[2] Includes grants to AT&T Bell Labs.
[3] Given by Thomas J. Watson, Chair Emeritus, IBM.
Sources: ATP and TRP lists of 1994 award recipients; Common Cause reports, based on FEC data.

4. Corporate welfare benefits workers and consumers. One of the main effects of many corporate subsidy programs is to raise prices to consumers. Trade restrictions, often sought by politically powerful industries, are estimated to cost consumers $80

[8] Stephen Moore, Government: America's #1 Growth Industry, (Lewisville, Texas: Institute for Policy Innovation, 1995), p. 92.
[11] Associations Yellow Book, Winter 1994, Vol. 3, No. 2, (New York: Monitor Leadership Directories, Inc., 1994), p. 692.
[12] Jeffrey Gerlach, "Politics and the National Defense: The 1993 Defense Bill," Cato Institute, Foreign Policy Briefing No. 22, January 20, 1993, p. 5.

billion a year.[13] The sugar program alone is estimated to cost consumers more than $3 billion a year, according to a U.S. Department of Commerce study.[14] The Commerce study concluded, "Because sugar is an ingredient in many food items, the effect of the sugar program is similar to a regressive sales tax, which hits lower-income families harder than upper-income families."[15]

The Commerce Department's ATP program is also advertized as a job saver. But from 1990-94 the ATP provided more than $250 million to eight firms—Amoco Corp., AT&T, Citicorp, DuPont, General Electric, General Motors, IBM, and Motorola. Over those 5 years, these firms reduced their total U.S. workforces by 329,000.[16]

THE POLITICS OF CORPORATE PORK

In its headier days of 1996 when Republicans still had a revolutionary fervor, Congress abolished the wool and mohair subsidies—the much maligned handouts that provided an annual payment of hundreds of thousands of dollars to each of fewer than 200 sheep herders in the U.S. Finally, Congress had gotten rid of a business subsidy. But in 1998 Congress resurrected the Wool and Mohair subsidy and the new version is just as absurd as the old.

Incredibly, between 1995 and 1998, with the most conservative Congress in half a century, corporate welfare programs did not shrink, they grew. There is plenty of blame to go around for this policy failure. The retreat has been bipartisan. And the left and the right share in the hypocrisy on the issue, the left for claiming that it cares for the "little guy" while funding the biggest bully on the block, and the right for claiming it believes in free enterprise—except when it comes to subsidizing corporate constituents.

But the Republican retreat on corporate welfare is more perplexing and laden with hypocrisy than the Democrat's. After all, the GOP is the party that describes itself as anti-big government.

It is precisely the Republican's skittishness when it comes to pushing big business off of the dole that gives their budget plans so little credibility with the public. Liberals charge that Republicans want to cut school children off the dole, but not the Fortune 500. The Washington Post assessed the budget plans by the Republican majorities by declaring, "Everything seems to get cut—but not corporate welfare." Such attacks are devastating to Republican credibility. Why? Because they ring true. "If you can't push AT&T and GE off the dole," Silicon Valley venture capitalist Tim Draper asked a group of Senate Republicans in 1997, "how can we ever expect to get farmers, unions, artists, and seniors to give up their subsidies?" Exactly.

By funding corporations with tax dollars the GOP only has reinforced the public's suspicion that this is the party of the rich, the privileged, and the well-connected. The discredited mercantilist policies of the Commerce and Agriculture Departments are the antithesis of the free market policies Republicans say they espouse. When I once asked Newt Gingrich why the 105th Congress had not made a serious attempt to slice out corporate pork, he responded: "This really isn't one of our top priorities....And I don't like the term corporate welfare much anyway." You can lead an elephant to water, but you can't make him drink.

Corporate subsidies should not be last on the GOP's hit list: they should be first. Americans want government downsizing if it is fair and balanced—meaning that the budget knife does not spare the most politically well connected.

The Republican budget revolution will continue to fizzle as long as GOP leaders ignore the corrosive impact that corporate subsidies have on the party and the government.

What seems clear from the policy failures of the past 5 years is that the corporate welfare empire in Washington cannot be toppled until the left and the right forge an alliance to purge the budget of corporate largesse. Rep. John Kasich has heroically attempted to do so in the past with his "Stop Corporate Welfare Coalition." Only a handful of Republicans and Democrats would publicly enjoin the Kasich crusade, the rest went into hiding in the bushes like the terrified Muchkins in the Wizzard of Oz.

Despite the conventional orthodoxy in Washington that the United States needs to forge closer alliances between business and politics—so called government-industry partnerships—the truth is that both government and the marketplace would

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[13] James Bovard, Fair Trade Fraud, (New York: St. Martin's Press, 1991), p. 5.
[14] U.S. Department of Commerce, United States Sugar Policy—An Analysis, 1988, p. v.
[15] Ibid., p. 10.
[16] Gilbert Gaul and Susan Stranahan, "How Billions in Taxes Failed to Create Jobs," The Philadelphia Inquirer, June 4, 1995, p. 1.

work better if they kept a healthy distance apart. It's in no one's best interest for the regulators and the regulated to get too chummy.

In Washington there seems to be a mighty fine line between too big to fail and too big to succeed. At the very moment that the Federal Government is in litigation with Microsoft, perhaps America's most innovative and profitable high-technology corporation in decades, Congress is spending hundreds of millions of dollars trying to prop up the firm's less efficient computer industry rivals. If the government succeeds in its quest to knock Microsoft from its lofty perch, no doubt it will have a taxpayer funded safety net waiting to cushion its fall.

We now have an unhealthy policy regime in Washington through which Federal regulatory and anti-trust policies are increasingly geared toward punishing success, while Federal corporate welfare policies increasingly reward the losers.

5. Corporate welfare fosters an incestuous relationship between business and government. Government and politics are inseparable. Much of what passes today as benign industrial policy is little more than a political payoff to favored industries or businesses. Taxpayer dollars that are used to subsidize private firms are routinely returned to Washington in the form of political contributions and lobbying activities to secure even more tax dollars. For example, the outdated Rural Electrification Administration survives primarily because of the lobbying efforts of the National Rural Electrical Cooperative Association in America. With a $78 million budget, that association is one of the most influential and heavily financed lobbying groups in Washington.[17]

6. the ATP and other Commerce Department corporate welfare programs put government up for sale to the highest bidder.

In the world of corporate welfare, big is beautiful. A preponderance of the high technology subsidies are diverted to many of America's largest companies, those with K Street lobbyists that help chase down "free" Federal dollars. For example, in 1995 the Philadelphia Inquirer monitored the largest beneficiaries of government technology subsidies from 1990 to 1994. Eight of the largest recipients alone had 1994 profits of just below $25 billion. (Table 3 shows the lucky winners.) Can anyone reasonably argue that at a time when the United States government is running $100 to $200 billion annual budget deficits, there is either equity or economy in having Uncle Sam sending out checks to billionaire companies? Can anyone argue that these companies cannot fund vital R&D projects and product development strategies without the help of Uncle Sam?

TABLE 3.—WELFARE TO THE WELL-OFF

[Dollars in millions]

Company	1990–94 Technology subsidies	1994 Profits
Amoco	$23.6	$1,800
AT&T	$35.6	$4,700
Citicorp	$9.6	$3,400
DuPont	$15.2	$2,700
General Electric	$25.4	$4,600
General Motors	$110.6	$4,900
IBM	$58.0	$3,000
Motorola	$15.1	$1,600

Source: Philadelphia Inquirer, "How Billions in Taxes Failed to Create Jobs," June 4, 1995.

But what is even more insidious is that Commerce Department corporate welfare grants appear to be closely tied to campaign donations. Table 4 lists 13 large ATP award winners with the contributions made to the two parties—the DNC and the RNC. ATP appears to be little more than a cash-in, cash-out system. The best way to end this symbiotic relationship between industry and government is to shut down the cash dispensing programs that invite corruption.

[17] Associations Yellow Book, Winter 1994, Vol. 3, No. 2, (New York: Monitor Leadership Directories, Inc., 1994), p. 692.

TABLE 4.—CASH-IN, CASH-OUT?

[Dollars in thousands]

ATP award winners 1992–95	1996 Contributions to	
	DNC	RNC
General Electric	$133	$130
BP America	57	218
Dow Chemical	91	268
AT&T	422	552
BellSouth	115	276
BellAtlantic	160	251
Boeing Co.	148	313
Chevron Co.	176	526
United Technology Corp.	231	239
MCI	607	357
Time Warner	401	325
Textron Inc.	274	373
General Motors	77	426

Source: FEC and Department of Commerce, 1997.

Mr. Chairman, I do not come to this issue with the intention of denigrating the contributions of these great and successful corporations. And I do not come to the issue with an anti-business, or anti-big business motivation. To the contrary. I want to see U.S. companies like MCI And General Motors dominating in global markets. The good news is that American firms are out-competing their foreign competitors today in industries across the board—from microchips to potato chips. Mostly these U.S. firms are winning without the help of government "aid."

It is not pro-business for government to try to help businesses one at a time—as seems to be the overriding mission of the Department of Commerce. It is not free enterprise for the government to be picking winners and losers in high technology markets—or in any industry. The way that the United States Senate can help create more Microsofts, more Intels, more Federal Express's, and more MCI's is not to have government go searching for them. It is to cut taxes, cut government spending, and streamline anti-business regulations that cause more problems than they solve.

A good way to start this crusade to keep American industry competitive is to abolish the ATP and the MEP and the rest of the corporate welfare state that impedes the free market from functioning.

Last year I co-authored a Cato Institute report entitled "Ending Corporate Welfare as We Know It," in which we estimated that the Federal Government now spends roughly $75 billion each year on more than 125 programs that provide direct taxpayer assistance to American businesses. This dollar estimate has been generally substantiated by the General Accounting Office and other research organizations, such as the Progressive Policy Institute.

To put the cost of these industry subsidies in perspective, if all Federal assistance to business were purged from the budget, the budget deficit could be cut in half. Alternatively, if Congress were to eliminate all these corporate spending subsidies, this would generate enough savings to entirely eliminate the capital gains tax and the Federal estate tax. Reducing the deficit or eliminating these anti-growth taxes would do far more to benefit American industry and U.S. global competitiveness than asking Congress to selectively pick industrial winners and losers.

Just what is corporate welfare? To some, it is like pornography: they can't define it, but they know it when they see it. Here is the definition that I have used in my work on this subject: corporate welfare is the use of government authority to confer special benefits to specific firms or industries where there is no corresponding societal benefit.

Last year Chairman Kasich and the rest of the Republican leadership in Congress pledged to "attack corporate welfare" as part of the quest for a 7-year balanced budget plan. The Clinton administration also seemed eager to terminate unwarranted government handouts to business. The administration even challenged the GOP Congress to identify and eliminate "aid to dependent corporations."

What progress have Congress and the Clinton administration made in cutting back corporate welfare in the budget?

The attached table shows a list of 25 of the most egregious examples of corporate welfare in the budget. These are programs that critics on the left and right have identified as unwarranted give-aways to business.

• Out of $16.4 billion in corporate subsidies through these 30 programs, Congress cut spending by just $2.6 billion in 1996. This was a 16 percent cut from the 1995 level. Eighty-four percent of the corporate welfare survived.

• Congress did eliminate or substantially eliminate the following corporate welfare programs: the Travel and Tourism Administration; the Department of Commerce Advanced Technology Program; the Pentagon's Technology Reinvestment Project; Sematech; the Bureau of Mines; highway demonstration projects; and the Pennsylvania Development Corporation.

• Conversely, some very expensive corporate subsidy programs were reduced minimally, or not at all. These programs include: agriculture research service; the International Trade Administration; the Federal Housing Administration; fossil energy R & D; the Bureau of Reclamation; the Office of Commercial Space Administration; the Overseas Private Investment Corporation (OPIC); and the Export Import Bank. Spending was actually increased for the Agriculture Marketing Promotion Program, which subsidizes the foreign advertising of U.S. corporations such as Pillsbury, Dole, and Jim Beam.

I would rate Congress's first-year performance on this issue as a disappointment. The size of the cutbacks were minimal. Some cuts were made—indeed, far more than were ever enacted by previous Democrat Congresses—but huge amounts of the corporate welfare state went untouched. Republican Rep. Scott Klug of Wisconsin acknowledges that "we have not shown the same kind of fervor in cutting corporate welfare as we have in the social area."

But if the Congress's performance was a disappointment, the Clinton Administration's was dismal. With few exceptions, the administration has shown itself hostile to even the modest corporate welfare cutbacks proposed by Congress. In fact, of the 25 corporate welfare programs examined in this study the administration's 1996 budget actually requested a 4 percent increase in spending (versus the 16 percent cut enacted by Congress). In addition, the president's vetoes of the GOP budgets target corporate welfare cuts as being too deep. Clinton has, at least for now, helped torpedo GOP efforts to shut down techno-grant programs, such as the Advanced Technology Program; to make even minor reductions in agriculture price support programs; to end costly and inefficient Department of Energy research projects; and close agencies such as the Department of Commerce, the nerve center of the Federal corporate welfare state.

Over the past eighteen months, the Clinton administration proved itself to be corporate welfare's best friend.

And the unfortunate result is that the corporate social safety net remains largely intact after 18 months of the "Republican Revolution."

Why weren't more cuts enacted, especially given the high profile attached to the issue in 1996? The original House budget resolution passed in June 1995 and crafted by this committee contained courageous and substantial reductions in corporate welfare. If implemented in full, the "Kasich Budget" would have constituted the largest assault against the corporate social safety net in history. As the table below shows, the list of business subsidy terminations Mr. Kasich compiled was impressive: the Tennessee Valley Authority, the Small Business Administration (SBA), the Export Import Bank, the Rural Electrification Administration (REA), the economic development administration (EDA), major farm programs, high technology pork grants, and many others. Three cabinet agencies, including the Departments of Commerce and Energy, were supposed to be terminated.

BUSINESS SUBSIDY CUTS IN THE FY 1996 HOUSE BUDGET RESOLUTION

[Dollars in millions]

	7-year savings
Dept. Commerce Trade Promotion	$1,500
Dept. Commerce Operations	$11,000
OPIC privatization	$50
EXIM Bank reductions	$750
NASA restructuring	$12,500
Privatizing UEC	$2,000
Dept. Energy programs	$6,200
Energy conservation	$1,300
P.L. 480	$2,100
Agriculture Research	$2,000
Farm subsidies	$20,000
Penn. Ave. Devel. Corp.	$250
NTIA	$3,500

BUSINESS SUBSIDY CUTS IN THE FY 1996 HOUSE BUDGET RESOLUTION—Continued

[Dollars in millions]

	7-year savings
EDA	$2,000
SBA	$1,700
TVA	$900
Shipping subsidies	$1,000
Mass Transit	$5,000
Local Freight Assistance	$150
Essential Air Services	$250
Travel and Tourism Admin.	$150
Bureau of Mines	$400
Total Corporate Welfare cuts	$95 billion

Parochial concerns prevented many of these cuts. The Senate has been particularly hostile to getting business off the dole. But more important has been the Clinton veto pen.

Why is it so vitally important for Congress to cut corporate pork out of the budget? The short answer is that attacking corporate subsidies is both good politics and good policy. It is good politics because it deflects the natural suspicion among voters that Republican budget cutters want to cut school lunches for poor kids in order to protect their rich corporate friends. Many Americans question the sincerity of Republican budget cutters who seem eager to end the dole for the poor, but not the Fortune 500—General Electric, Texas Instruments, IBM, and Pillsbury—all of which get several million dollars of grants from taxpayers each year. Cutting corporate welfare is good economics because very few of the industrial policy programs run out of Washington have a credible track record in terms of creating jobs or wealth.

I applaud this Committee's commitment to redouble its efforts in the 1997 budget to cut business subsidies.

But why wait until 1997? Why not cut corporate welfare right now?

Here is how this can and should be done. Congress should immediately enact a budget recision spending bill that could be entitled "The Corporate Welfare Elimination Act." This budget bill should terminate at least 20-25 business subsidy programs with a 6-year savings of at least $75 billion a year. The bill should target programs that have been universally targeted for extinction by groups such as the Cato Institute, the Heritage Foundation, the Progressive Policy Institute, and even in some cases the Nader group Essential Information.

Spending programs included in this recision should include, but not be restricted to:

- The Small Business Administration
- The Advanced Technology Program
- Forest Service Road Building
- Federal Housing Admin. subsidies to mortgage lenders
- The Agriculture Marketing Promotion Program
- Manufacturing Extension Program
- National Technical and Information Administration
- International Trade Administration
- Department of Energy R & D funding
- The Maritime Administration
- Overseas Private Investment Corp. (OPIC)
- Agriculture Research Service
- Minority Business Development Admin.
- The Export Import Bank
- Economic Development Administration

Congress should embark on a high profile national promotional campaign to sell this large deficit reduction package to the public. Passage of the corporate welfare cuts should be among the highest priorities in the remaining months of the 105th Congress. Eliminating budget subsidies for the Fortune 500 adds credibility to Congress's equally vital cutbacks in failed in social welfare programs.

The corporate welfare reduction package should also be a central element of any "deficit downpayment budget" negotiations with the White House.

One final point. Corporate welfare cutbacks should be restricted to spending programs, not tax loophole closings. To be sure, there are at least $50 billion in obnox-

ious special interest tax breaks in the internal revenue code carved out for corporate special interests.

But there are compelling reasons why loophole closings should be left off the table—at least, for now. The principal one is that there are still at least $60 billion a year in direct taxpayer subsidies that have not been terminated on the expenditure side of the budget. Since the direct spending of taxpayers' dollars is the most offensive feature of the corporate welfare state, the expenditure subsidies should be the top priority of this Congress.

More importantly, corporate welfare in the tax code should be eliminated in its entirety—all $50 billion worth—in the context of the revolutionary change in the tax code that is expected in 1997. Majority Leader Dick Armey's flat tax bill would eliminate all corporate welfare from the tax code in exchange for a single low rate tax system. Bill Archer's proposal for a national consumption tax to replace the income tax would immediately and forever end income tax preferences for businesses. Either of these proposals would lead to a far more equitable and efficient allocation of economic resources in the economy.

In sum, corporate loophole closings should be achieved in exchange for dollar for dollar reductions in tax rates applied to individuals and businesses. To the extent corporate welfare is a deficit reduction theme, it should be in the context of cutting business subsidy expenditures.

Americans are demanding deficit reduction and government downsizing that is fairminded and balanced—meaning that the budget knife is not spared on the most politically well-connected K Street special interests. Both the social welfare and corporate welfare states need to be reformed with equal urgency.

Chairman KASICH. Grover, you are up.

STATEMENT OF GROVER G. NORQUIST

Mr. NORQUIST. Thank you, Chairman Kasich. Thank you for the opportunity to testify here and also for your leadership on this issue over the last several years. I am Grover Norquist. I run Americans for Tax Reform. In keeping with truth in testimony, Americans for Tax Reform does not and has never received any money from any government at any level.

I have testimony which I have submitted in writing to you. It is on our website at *www.atr.org*.

I just want to make a couple of brief comments. First when we are looking at corporate welfare, let's not just look at for profit corporations but also not for profit corporations. Some of the rural utility services, the power marketing authorities give money to not for profit corporations. They are corporations just the same and people get rich working for them. So we are looking at all corporations, I hope.

Second, I do distinguish between government corporate welfare spending which are direct grants, checks written below market loans given to companies and institutions. Those are different than tax cuts or tax deductions or tax credits. I am in favor of in the context of tax reform moving to a single rate that taxes income one time and has a two-thirds requirement to raise taxes in the future. If there is some parts deductions or credits that we ought to be eliminating let's do that in the context of overall tax reform getting to a single rate tax. Otherwise, I do agree that May West's observation on sex are true about tax cuts. All tax cuts are good tax cuts.

The examples, they have all been brought up, the Overseas Private Investment Corporation commends itself, the Export-Import Bank, the milk, peanut and sugar complicated cross-subsidy programs, cargo preference, the Jones Act, the entire Commerce and Energy Departments could be separated out from those parts that are corporate welfare and those parts that you actually need. I think it is time to shut down both of those departments.

The base closings idea that several people have brought up here I think recommends itself. When we remember the history of Dick Armey's efforts to close bases, his effort was a miserable failure. It backfired. He said here are 20 really unproductive military bases, let's eliminate them. And the Congressmen and the Senators who represented those 20 ran out and each got five friends and they said, look, I have got a really stupid spending program at my base that I want you to help me protect and I will vote for your stupid spending program if you will help protect mine. So we not only didn't get rid of the 10 but we had all these other votes tied up which were traded for other bad spending programs. So it was counterproductive even though Armey thought well, I will pick the easiest 20, that would be easiest.

We have done this before in corporate welfare. We take a look at OPEC and Eximbank and we figure, well, we will go after the smaller ones or the weaker ones or the really stupid and evil ones that everybody has got to see. But you just tell them you are coming, they go out, round up their friends and you get people swapping votes in a negative way on that. Therefore, the base closings idea that Dick Armey put together with Congressman Sharp of Indiana which said, look, we are just going to get rid of X number of bases, we will set up a commission and everybody in Congress says, well, there aren't any no good bases in my district so I am perfectly willing to let the Pentagon come up with a list and then we vote it up or down. Similarly, the people who get corporate welfare will look you in the eye and tell you they are not getting any corporate welfare so they have nothing to fear and I think it would be much easier to pass the commission idea with the target of $20 or $30 billion than to go after them one at a time. We just charge up that hill a number of times and get beat back and people trade votes.

The other model—the first model is base closings, which we saw what happened when you tried to pick them off one at a time and we saw the success when you did them in a group. The other is the freedom to farm model. For years people were trying to get a handle on farm subsidies, which is a form of corporate welfare. And we just couldn't do it going after, talking to people. But when we said, look, farmers—there are a lot of regulations you don't like and there are some subsidies you do like; let us phase out the subsidies and let us eliminate the regulations. If we went to the business community and said we are going to take $20 billion of corporate welfare off the table and we are going to do an across the board tax cut of $20 billion, everybody who is not in the corporate welfare gravy train will say this is a complete win for us and we have a lot of allies. So sometimes if you are taking something away from somebody, what is it that the government does to these people that you could stop hurting them doing. And so a freedom to farm effort, I certainly think that Steve Moore's idea of requiring companies to list the corporate welfare they do get would be a tremendous asset in the public relations debate to reduce it.

And lastly, the reason to get rid of corporate welfare is not just that it takes money from people who earned it and gives it to people who didn't earn it, as important as that is. Corporate welfare breeds corruption. If you have got people handing out tens and

hundreds of millions of dollars, people will find ways to get that and they are not pretty and they are not honest. You want campaign finance reform, get rid of corporate welfare. You would be amazed how that will affect campaign financing trends. The other is it is a tremendous misdirection of energy. People who are creating enterprises and employing people should be out in America doing that, not here in Washington trying to get checks sent to them.

Thank you very much.

[The prepared statement of Mr. Norquist follows:]

PREPARED STATEMENT OF GROVER G. NORQUIST, PRESIDENT, AMERICANS FOR TAX REFORM

Chairman Kasich, other members of this committee, and ladies and gentlemen, thank you for the opportunity to address you this morning. My name is Grover Norquist, and I am the President of Americans for Tax Reform, an organization of over 90,000 individuals, corporations and associations that are concerned about the high level of taxation. I come before you today to speak briefly about corporate welfare spending.

What is Corporate Welfare?

Americans for Tax Reform defines "corporate welfare spending" as all direct government payments to public and private companies and corporations where the Federal Government does not receive a good or a service in return—particularly where the money goes to aid or assist a profit-making activity. Corporate Welfare may also include regulations that limit competition and increase corporate profits, such as the Davis-Bacon Act.

ATR does not include tax breaks or tax incentives in its definition of "corporate welfare spending" because allowing taxpayers to keep more of their own money is not welfare. Any tax breaks that give particular businesses or industries "unfair advantages" should be eliminated as part of overall tax reform, where the revenues can be used to reduce tax rates.

ATR's definition of "corporate welfare spending" consequently does not include government contracts derived through a competitive bidding process, where the government receives some product or service in exchange for the money expended. Moreover, although there are a lot of wasteful and redundant Federal programs, which should be eliminated, not all of them fall under the rubric of "corporate welfare spending."

This corporate welfare is harmful because it wastes taxpayers funds on profit-making corporations that should be paying their own way. It also distorts the private market, reducing economic efficiency and prosperity overall.

In 1996, conservatives led the fight to restructure welfare for the poor, changing the system from a Federal handout program to one where recipients are given the means and incentives to help themselves out of poverty and become productive members of society. This year, Congress should take the next step to reign in wasteful, counterproductive government spending.

"Corporate welfare" encompasses a broad range of government programs that give taxpayer funds to special interests to help them pad their bottom lines. In fact, ATR compiled a list of over 70 corporate welfare programs costing taxpayers almost $50 billion in FY1997 alone. These programs range in size and scope from a $200,000 program to compensate damaged fishing vessels to $4.23 billion in Federal subsidies to big agricultural companies like Dole and Archer Daniels Midland, increasing the cost of food and adding to the profit margins of some of the world's biggest and richest companies.

For example, every year, the Overseas Private Investment Corporation (OPIC) and the Market Access Program (MAP) spend and risk billions of your hard-earned tax dollars to subsidize risky overseas investments and foreign advertising of U.S. products to make it easier for U.S. companies to export their products. These advertising subsidies and loan guarantees should be borne by the companies that are lucky enough or well connected enough to receive them, not by the U.S. taxpayer, who is forced to help increase the sales of these lucky companies.

While it strives to eliminate these taxpayer subsidies, however, Congress must carefully define "corporate welfare" to include only those programs where the government sends a direct subsidy or payment to a company and receives nothing in return, not including tax breaks or tax incentives in that list. We must beware of those politicians who wish to raise taxes on the American people rather than cut

corporate welfare spending. Some politicians claim that by reducing or eliminating some tax preferences, they are targeting corporate welfare. Tax cuts are not corporate welfare. Government spending is. The government's failure to take your money is not a subsidy. Your income belongs to you, not the government. Thus, when Bill Clinton or Ted Kennedy claim that "rich corporations are not paying their fair share" of taxes, they are not speaking about "corporate welfare," but about tax increases that they want to impose on these companies to help them fund more runaway government spending.

Congress should join the lead of Chairman John Kasich who has vigorously fought to balance the budget on the backs of those who do not need or deserve Federal handouts, getting the government out of the pocket of the taxpayer. Corporate welfare is just one example of this undeserved largess, but it represents a battle that both left and right can cooperate on to halt the taxpayer subsidizing of businesses.

I have attached to my testimony a list of ten top corporate welfare targets. Let me add that the Department of Commerce is an entire Cabinet Department devoted to corporate welfare. The Department's most basic mission is to use the power of government and taxpayer funds to advance corporate business interests. As Robert J. Shapiro, the Department's Undersecretary of Economic Affairs, has written, "A lot of the program's in the Commerce [Department] are simply transferring resources from the taxpayers to influential companies."

Moreover, nearly all of the Commerce Dept.'s programs duplicate activites performed elsewhere in the Federal Government. Indeed, the GAO reports that the Commerce Dept. duplicates the mission of at least 71 other Federal Departments, agencies, and offices.

Consequently, this Dept. of Corporate Welfare should be abolished entirely. Any essential activities of the Department can and should be transferred to other relevant Departments or agencies.

The Department of Energy deserves the same fate. Among its corporate welfare programs are Energy Supply, Research, and Development, Fossil Energy Research and Development, Uranium Supply and Enrichment, Energy Information Administration, Clean Coal Technology, the Power Marketing Administrations, and General Science and Research Activities.

Both Energy and Commerce have been deeply plagued by scandal in recent years, demonstrating their too easy potential for misuse as corporate honeypots and loopholes for foreign penetration. If the Congress cannot do the right thing now and abolish these two corrupt and unpopular departments, then when can the taxpayers count on it for wise and careful administration of their hard-earned tax dollars?

Chairman KASICH. Even though he didn't directly attack me in this testimony, Mr. McIntyre, I feel you have been—I don't know if you want to have a little retort to these guys. Is there anything you would like to say?

Mr. MCINTYRE. Well, I must say I am sort of friendly with Steve, and I know Grover, and I don't really understand how they can take the position that if the government writes a check to General Motors with the green ink that is bad but if it writes it with blue ink then that is just fine. The distinction between giving a company a tax abatement and giving it a check when you are paying them to do the same thing, or you could be anyway, it is just beyond me to understand the distinction.

Now, these are very smart guys that I am sure they can explain it to me some day. But I have been listening to them for years. As best as I can tell, they are fascinated with the lines in the budget that say spending and revenues—and if that is all that matters, I suppose that is all that matters.

Back in the early eighties, the Members of Congress decided it was necessary to cut Social Security benefits for upper income recipients. But to satisfy the Democrats, they did it with a tax increase rather than a benefit cut. So they raised taxes on Social Security benefits for upper-income beneficiaries. That made the Democrats happy because it wasn't a Social Security cut. But it

made the Republicans unhappy because it wasn't a spending cut. It is a strange world we live in.

Mr. MOORE. Just to make one quick response to that. I did not work for Ralph Nader so I am not as smart as my friend Bob McIntyre. But the fact is if you look at some of the listed programs that Bob McIntyre says are corporate welfare, I simply don't think that they qualify. Look, if we give a capital gains tax cut for business, that is a good thing, not a bad thing. I think the proper rate of capital gains is zero on our companies. If we allow companies a write-off on the business expenses that they have to build new factories and invest in technology and add factories that workers can work in, this is good for America, not bad for America. I think we ought to get rid of the deduction tables and allow immediate expensing.

Now, Bob would say that is corporate welfare probably. I would say this is a good investment in America. It really depends how you define what some of these things are. One last point. If we want to get rid of some of the garbage in the Tax Code, and I believe with Bob there is a lot of it in there and corporations have carved out special interest loopholes, let's do that but let's fix the whole damn system at once.

Mr. NORQUIST. If the government didn't cut your finger off, it didn't give you your finger. If the government doesn't take your money, it didn't give it to you. There is a big difference here between the government's failure to loot you and the government giving you something. And that is a distinction. There shouldn't be a capital gains tax. It is taxing income a second and third time. That is not corporate welfare. That is tax policy. We should have expensing. I am all in favor of moving to a single rate tax that taxes income one time and requires a supermajority to raise taxes. That is where I think over time we are heading to. But let's, if there is a deduction or a credit that got sneaked in because somebody was doing something, let's eliminate it without raising the total tax burden.

Chairman KASICH. Let me—I was trying to give you a chance there, Bob. It didn't work out so well. We are going to get started into votes here. I have to say to you that, you know, I think the commission idea is an interesting idea. You can put a bill in to create a commission. It is never going to pass; I mean, not for a while. I can tell you it is not going to pass because these bills have been put in before and what you are doing is you are asking somebody to basically roll the dice when the Congress hasn't been committed to any notion of this anyway. So I would propose you have the two-step process.

Now, I can suggest to you and this is the last time I think I can try this because I am frankly getting tired of this myself, turning this over to a young buck like Saxby, but if we could get Tom and Jill and Bob and Steve and Grover and Ralph to all sit down and find like two items, I think you have all mentioned the Advanced Technology Program except for Bob. And I know Ralph isn't for it so if we were to say let us show you, America, how silly this program is and we are going to spend some time this year charging up our membership and our organizations to visit their Congressmen and their Senators and to say that we think this program is

just flat out wrong and if we actually put some energy behind it, we might get it done.

Now, I know you come out with a lot of lists because I work with all of you and we know how painstakingly difficult it is to get anything on the list ever off the list because we keep putting them on a list year after year because we never get rid of any of them and it just seems to me as though it would be good for your base, it would be good for all of our constituents, if we were to just focus on two. I tried to get to 10 and that was a waste of my time. But can't we find two items where we can just give a little bit of our effort to try to get something done and get behind whatever it is you think we need to be behind. It should be a Republican and a Democrat. And let's just take really two ugly programs that we all agree on and just get something done because then I think it will give us an incentive to get more done.

I wondered what you think about that, Steve.

Mr. MOORE. I totally agree. I think two—I would like to see more like 10.

Chairman KASICH. Yes, but we can't get 10. We spent almost 1 year trying to get 10 items put on the table, and it was like dealing with the fifth grade, and I mean, I am just being honest with you. We couldn't get anybody to agree with anybody else, and we can't do 10. So I think we have got to cut it smaller, and I don't mean just have a list because we have a list. That means nothing. Are there two things that we can get a little bit fired up for that we can actually be successful on?

I will tell you, the reason why the timber roads happened is because there was a constituency out in America that wanted it dealt with. We have just simply got to create a constituency for getting rid of something, and you know, if we got rid of it, it would be news and then people would like at your organizations and our organizations in the Congress as something that, hey, that is a victory for us. I am really begging you to help. I would just like to see us get something done, and at the same time, if we want to pursue a commission we can pursue a commission.

Mr. NORQUIST. Let us do it.

Mr. SCHATZ. Let me just add something to that. I think one of the things that we didn't look at that closely when we were talking about those 10 items was the politics of which one makes the most sense, where you can get the votes and where you are going to get the consensus? Look at our list here, our top 10 for the groups here includes Market Access Program and Advanced Technology, almost every one of those we will all agree on. So that is where you need to look. Now where is the opposition? Who is going to come out most strongly against it? The reason that OPIC was successful the first time is because we did it and they weren't really organized on the other side.

Chairman KASICH. They weren't organized, and we were, and that is why it passed.

Mr. SCHATZ. Right, and that is something else to think about. We have had votes on almost all of these over the years. Sometimes we get even further away, like Economic Development Administration seemed to be getting fewer and fewer votes, but we did cut it back. Now, ATP, the money is about 200 million less than it was

a couple of years ago, but it just kind of stays there at the same level every year, and the same with Market Access. We kind of changed how the money goes out. So let us find something that we can sit down and agree on the strategy, agree on the politics and get a consensus and count some votes before we go out there.

Chairman KASICH. Although I will say in regard to ATP, and this is a decision that I think has to be made jointly, but I think you folks need to start figuring out which ones you are most comfortable with. In the era of the Internet, and I mean, if you had the people from the Silicon Valley come in here who are really—either the venture capitalists or the business owners, the CEOs themselves, they won't tell you they want any ATP money. I mean, they think that is a joke out there. I mean, I have talked to them about it. They have no interest in it. I am sure they could line a couple people up to come in here, if the money is there, might as well take advantage of it, but they instinctively don't favor programs like that, and maybe you could even involve that part of the business community to help to defeat that.

I mean, I think, Tom, you have hit on something, though, which is we have to consider the politics of which ones are the most right for plucking. Jill, you want to make a comment?

Ms. LANCELOT. Yeah, I do. I just want to say that the good news is I think that I too would like to see more than two. I certainly understand the problems that we had. I absolutely sympathize with it, but this does not tell the whole story because we were only allowed to have 10. Seven of these that are on here that my organization isn't marked on, we support getting rid of. So there is even more than what we have here in this list.

I just want to also say politics is a problem. We need to strategize about that, but you mentioned it earlier, Mr. Chairman, grassroots. If we get the public behind us, we can do this, and lots of these organizations have enormous grassroots support, and we need to be tapping into the grassroots. We need to organize them, and that is the way to do it, and I am convinced that having bipartisan support from the House and the Senate and having organizations that are represented here today we can make that difference.

Chairman KASICH. Other questions for the panel?

Gentleman from Georgia.

Mr. COLLINS. Mr. Chairman, I just have one question. The Americans for Tax Reform, the CATO Institute, Citizens for Tax Justice, Taxpayers for Common Sense, Citizens Against Government Waste, are you a for profit or not for profit organization?

Ms. LANCELOT. I am not for profit, and in the disclosure, we take no government grants.

Mr. SCHATZ. We are also not for profit. We also don't take any government funds.

Mr. MCINTYRE. We are not profit as well. We don't make any profit.

Mr. MOORE. Not for profit.

Mr. NORQUIST. Not for profit.

Mr. COLLINS. You don't pay any taxes either?

Mr. MCINTYRE. We pay taxes on every penny we make.

Mr. COLLINS. Individually?

Mr. MCINTYRE. No. The organization breaks even. So if we were a for-profit business, Congressman, our taxes would still be zero. In other words, we are happy if you treat us as a for profit or a nonprofit because the tax will be identical.

Chairman KASICH. The gentleman from Pennsylvania is recognized.

Mr. HOEFFEL. Thank you, Mr. Chairman. If I can talk a little bit more about remedies, we heard from Mr. Nader earlier today. His primary remedy was a bill to eliminate all corporate welfare, to define it and then pass a bill eliminating it all based on the concept of zero based budgeting for those of you who were here, with the battle cry of let them start over again to justify any corporate breaks, welfare breaks they might want, and it is a very legitimate concept.

Mr. Moore and Mr. Norquist embrace the commission idea based upon the Base Closure Commission with one up or down vote by Congress, no picking and choosing.

My proposal is a commission but with the ability to amend—for Congress to consider the recommendations of the commission but be able to amend it and pick and choose a little bit. I think that is a better process. I would be interested in the opinions of all five but particularly the three that didn't have an opportunity to address pro-commission, anti-commission or any other mechanism that you think Congress should use.

Mr. MCINTYRE. Well, it seems to me that if you are going to make something significant happen, rather than symbolic, and symbols are nice but perhaps not as important as some people think, then you have to give the nonbeneficiary public, in which I include a lot of companies, a stake in it. So that means like in 1986 when we did tax reform—a big thing, very important—one of the reasons it was enacted was that half the companies in American were for it because they weren't getting big tax breaks. And today lots of American companies aren't getting corporate welfare to a significant degree. If you can offer them something as part of a tradeoff, they will be for it. If you get a significant portion of the business community on your side, you have a lot better chance of moving forward on this than if you don't have them, because they have lots of lobbying clout.

So I think if there is going to be a major attack on corporate welfare you have to do it in a way that cuts the corporate rate a few points or does something to bring other companies on board because otherwise, you know, the ones that get nothing won't care and the ones that lose something will.

Mr. MOORE. I like the Nader idea. I like this idea of putting—you know, you and I, Mr. Chairman, have had this conversation for years. I kind of think that if we put a big package together with a big price tag on it, so the prize of getting rid of these things is big enough, you know, and you have an up and down vote on are you for corporate welfare or are you against it and every single Member of Congress has to stand up and say I am for it or against it, that is a tough vote. I know you disagree with me on this, but I just would like to see that vote taken.

Mr. KASICH. If the gentlemen from Pennsylvania would just yield.

Mr. HOEFFEL. Yes.

Chairman KASICH. Let me just give you a perfect example. I don't know if you were in the room, but we had Dan Miller saying we want to get rid of sugar, and then Mr. Chambliss comes in and he says, no, you don't understand, and so you put—I am just talking to you practically. You say, well, this is a vote up or down on corporate welfare. He doesn't have any problem voting against the bill that knocks out sugar because he doesn't think it is corporate welfare.

So the rhetoric is, you know, the rhetoric is what does you in. It is like pork. Pork is something that happens to somebody else's district. So that is why I think the big package idea—I mean if you want to get something done, it is going to take everyone in this room to sit down and pick out two items and spend 1 month before a vote alerting your people to visit their congressman and doing a campaign out here on the steps like the people do when they really want something done, and then it gets done.

Now, Grover's been very successful in the area of this tax pledge. OK. Why? Because he drives people crazy, and he has people in his organization that drive people crazy. Tom's put out a terrific list. His list is, you know, a hundred zillion dollars worth of savings. So what? Nobody cares. They go, well, I hear you and the guy from Citizens Against Government Waste announced this big list today. I said, yeah, what about it? They say, just heard about it. OK. Now, did the Yankees win today?

I mean, it just doesn't have an impact unless you are going to force something to a vote, and if you say you are going to get a discharge petition, you will never get the Members to sign the discharge petition. That is why you have to focus on a couple. All the rest of the schemes, if you want to put a commission in, that is fine. We can push for all that, but I just—I know the success that you have when you go against certain things and how I think it works.

Ms. LANCELOT. And I want to make a comment. I have to say I totally agree with the chairman, although I would put a plug in for the idea of a bill because that is a great organizing tool for grass roots, and we can use that, and we can get steam, and then we can come back, which is what my strategy has been on several things, the gas cooled reactor and the advanced mill reactor, we had a bill, we had something out there, came back and then zeroed in on a few things, and we were able to eliminate some of these programs, and I think that it is something to talk about.

Mr. SCHATZ. Since I was asked, let me address the commission idea. The basis of the commission that Mr. Armey put together came out of the Grace Commission's concept and that is the predecessor to Citizens Against Government Waste. So we are a little bit fond of the idea of an up or down vote, and I think the idea, and I understand Mr. Kasich's frustration and have worked with him many years on this whole issue. The idea of having just what is, quote, unquote, cover for the Members makes it a little bit more difficult to vote no. In other words, you can pick this whole list and say, well, I had to do something about corporate welfare, I am sorry my program was in there, but I had to do something. If you get to pick and choose, it gets political.

Look at the base closing situation we are in now. The President decided that the depots in California and Texas shouldn't be closed or should be kept open and to vote for him, and now the Congress hasn't gone back to the base closing idea when we really need to close bases.

So I think it is worth continuing to discuss, but from our standpoint we like the idea of the up or down vote.

Mr. HOEFFEL. The difference between the two, though, in the Base Closing Commission, everything under consideration is a military base, and if this corporate welfare commission were ever to be established, it would be considering tax breaks, subsidies, below market fees. It would be quite a mix of things that might make it a little bit harder to deal with as one big lump sum or one big proposal.

Mr. SCHATZ. But if you did mix both, you would get Bob McIntyre and everyone else probably agreeing. If you had a cap like Steve had suggested 20 to 30 billion, whatever it is, it makes it a little more palatable to say, well, we are just taking a chunk of this, we are going after some things that are the most egregious, that this whole commission agreed on, and therefore, we should go 1 year at a time, where we do it every other year or something. That at least allows Members to feel like they are not doing everything at once because I don't think you want to take the whole thing at one time.

Mr. HOEFFEL. It would be nice to get some victories, to actually get something passed, get that momentum that the Chair has been talking about.

Ms. LANCELOT. Can I just say one other thing, which is we have been talking about corporate welfare for how many years?

Chairman KASICH. Not that many, maybe three or four, since 1995.

Ms. LANCELOT. We haven't done much about it. So if we continue to just talk about it, again, what you are talking about is going after one or two and then we get rid of those, and then we go after the three and four, and then we go, and it takes a long time, and people think, oh, my goodness, it is much too long, but if we just talk about it all the time and not really go after it, and really focus, we are just—that is all it is going to be is talk—really believe that we can make headway, and we can make a difference if we focus in on one or two, three or four, up to 10 finally.

Chairman KASICH. Well, I think we are going to wrap up the hearing. I am going to host a meeting for you five and Mr. Nader when we come back after the Fourth of July break and see if we can reach a couple of items. I am glad to support any effort. The problem we ran into is we actually announced a list of 10 or whatever it was a few years ago and couldn't get any Members to show up at the press conference, and I begged Rob Andrews from New Jersey to fly in. I couldn't get anybody else to show up at it.

And then we offered—it sounds like we didn't do anything. We offered a number of amendments on the House floor where we got blown out every time because I think it was you, Jill, and three guys standing on the street corner shouting, you know, the world is coming to an end. That is all the support we had, and we just got killed.

Although I have got to go back and talk about the one where we were successful. I mean, frankly we were successful in scaling some things back. Even with OPIC, we made some—what we thought were some steps, not sure we did, the same with a couple other areas of the government, but the one where we had the clear victory was in the area of the timber roads, and that was because that constituency out there was very active, and if we could find a couple and try to turn our people on to this, and probably won't be able to get much done this year because of the advanced nature of appropriations, maybe we can, we just have to see where we are, but if we can reach some agreement, and I can have some Democrats join me, along with some Republicans, maybe we can get somewhere.

Ms. LANCELOT. I would just like to make it clear from my point of view that was absolutely a victory on timber roads. There is still more to be done in the Forest Service. Forest Service still loses money on money losing timber sales, and we are still building roads.

Chairman KASICH. Well, I want to thank my many friends for coming today and Mr. McIntyre—no, just kidding—so thank you all for being here, and that will conclude today's hearing.

[Whereupon, at 3:48 p.m., the committee was adjourned.]

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