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Testimony of Ralph Nader on Corporate Welfare Before the Committee on the Budget, U. S. House of Representatives, June 30, 1999

Testimony of Ralph Nader Before the House Committee on the Budget June 30, 1999 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, D.C. 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: o 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? o How do corporate welfare programs become entrenched and immune to cessation or reform? o To what extent do foreign corporations benefit from the expenditure of U.S. taxpayer dollars on corporate welfare? o How can fair pricing mechanisms be used to allow beneficial programs to be preserved, while eliminating welfare subsidy components? o 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? o 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? o How do economic subsidies disadvantage non-subsidized 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 benefits. 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 non-exclusive 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 non-monetary 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 corporations 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 1950s and 1960s, 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 1970s 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 non-exclusive, 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 non-monetary 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 non-corporate-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 non-broadcasting 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 national 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 four 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 one 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 non- economic 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 non-profit organization. The new non- profit 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 1980s, 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, non-exclusive licensing. The Justice Department offered what remains a compelling case for non-exclusive 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-1970s, 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 non-exclusively for a period of six 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 two years of Bristol-Myers market exclusivity 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 non-exclusive 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 1960s, 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 non-competitive 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 non-participants-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 non-renewable 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 non-exclusive licensing, followed by the possibility of exclusive licensing if no party accepts a non-exclusive 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 1980s and early 1990s. 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 company 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 non-monetary 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, non-profit, non-partisan 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 non-regulation pave the way for bailouts, especially in the financial sector. Thus Congressional corporate welfare opponents should be looking very carefully, for example, at the non-regulated 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 non-bank 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 five-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 two 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. 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 non-taxable 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, D.C., 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 five 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 work-out 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: o Fannie and Freddie each have a contingency fund of $2.25 billion that can be drawn from the U. S. Treasury. o Their securities are government securities for the purposes of the Securities Exchange Act of 1934. o Their securities serve as eligible collateral for Federal Reserve banks discount loans. o The securities are exempt from registration under the Securities Act of 1933. o The Secretary of the Treasury approves the issues. o The Federal Reserve is the fiscal agent for the issues. o 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 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 eight 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 1950s and 1960s 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 permits 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 under-investment 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 decision- making 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 towards 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 wrongdoers- 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 legislative 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 non-monetary 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, pluri- centered 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 non-monetary 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 four years after initial adoption, and every five 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 non-budgetary 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 rule-making. 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 non- monetary 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 non- partisan, non-profit, 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&DGiveaways: 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 non-exclusive 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 non-exclusive 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 non- bank 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, D.C. 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 non-monetary 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.