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OLL85-1327
3 May 1985

MEMORANDUM FOR: ✓ Chief, EPS [redacted] DDO
[redacted] DD/PA&E/OP
Associate General Counsel for Administrative
Law/OGC

FROM:

[redacted]

STAT

Deputy Chief, Legislation Division
Office of Legislative Liaison

SUBJECT:

Benefits for Government Employees Kidnapped or
Captured: Proposed Legislation (H.R. 2019)

1. The Office of Management and Budget has asked for our views on a bill which would provide special benefits to Government employees who are captured, kidnapped or deprived of their liberty as a result of hostile action directed against the United States.

2. Congresswoman Schroeder introduced the bill which was referred to the Subcommittee on Civil Service of the House Post Office and Civil Service Committee. Mrs. Schroeder is the Chairperson of that Subcommittee and expects to move H.R. 2019.

3. Introduction of the bill was accompanied by a floor statement (a copy included herewith) explaining the bill. In this connection, it is well to note that H.R. 2019 picks up where the "Hostage Relief Act" leaves off, the latter having expired in 1981 by Executive Order. For comparative purposes a copy of the Hostage Relief Act is also attached.

4. So that we may provide a timely reply to the Office of Management and Budget your response by May 10, 1985, would be appreciated.

Attachments
as stated

[redacted]

STAT

99TH CONGRESS
1ST SESSION

H. R. 2019

To amend title 5, United States Code, to provide certain benefits for Government employees and similarly situated individuals who are captured, kidnaped, or otherwise deprived of their liberty as a result of hostile action directed against the United States and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 1985

Mrs. SCHROEDER introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to provide certain benefits for Government employees and similarly situated individuals who are captured, kidnaped, or otherwise deprived of their liberty as a result of hostile action directed against the United States and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF**
4 **HOSTILE ACTION.**

5 (a) **IN GENERAL.**—Subchapter VII of chapter 55 of
6 title 5, United States Code, is amended by adding at the end
7 thereof the following:

1980 Amendment. Subsec (a) Pub.L. 96-499 provided that the period of leave used for calculating the lump-sum payment was not to be extended due to any holiday occurring after separation.

Effective Date of 1980 Amendment; Applicability. Section 402(b) of Pub.L. 96-499 provided that: "The amendment made by subsection (a) [amending subsec. (a) of this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1980] and shall apply to employees separating from the service on or after such date."

Legislative History. For legislative history and purpose of Pub.L. 96-499, see 1980 U.S. Code Cong. and Adm. News, p. 5526.

Notes of Decisions

Separation from service 1a

1a. Separation from service

Since D.C. Code § 11-1505(a), establishing maximum number of leave days that a judge of the superior court of the District of Columbia may be granted in any particular year, does not

create a substantive right for judges to accrue annual leave and be paid for the leave when employer leaves government service, that section and subsec (a) of this section, authorizing a lump-sum payment of accrued annual or vacation leave to which an employee is statutorily entitled, taken in conjunction, could not fairly be interpreted to mandate compensation by the government, and thus Claims Court was without jurisdiction to entertain former superior court judge's action seeking lump-sum payment for unused annual vacation leave. *Alexander v. U.S.*, 1984, 5 Cl.Ct. 57.

Subsec. (a) of this section does not affect an employee's right to holiday pay before his separation date. 1982, 61 Comp.Gen. 363.

This section contemplates an actual separation from government service and does not apply to a transfer such as resignation from a government agency and re-employment in a second government agency the following day and consequently a lump sum payment to an employee separated by the United States Information Agency and appointed by the Air Force the next day was erroneous. 1980, 59 Comp.Gen. 335.

§ 5561. Definitions

Hostage Relief. Pub.L. 96-449, Oct. 14, 1980, 94 Stat. 1967, provided.

"That this Act [enacting this note] may be cited as the 'Hostage Relief Act of 1980'."

"TITLE I—SPECIAL PERSONNEL BENEFITS

"DEFINITIONS

"Sec. 101. For purposes of this title—

"(1) The term 'American hostage' means any individual who, while—

"(A) in the civil service or the uniformed services of the United States, or

"(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

"(2) The term 'hostage period' means the period beginning on November 4, 1979, and ending on the later of—

"(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

"(B) January 1, 1983

"(3) The term 'family member', when used with respect to any American hostage, means—

"(A) any dependent (as defined in section 5561 of title 5, United States Code) [this section] of such hostage, and

"(B) any member of the hostage's family or household (as determined under regula-

tions which the Secretary of State shall prescribe)

"(4) The term 'captive status' means a missing status arising because of a hostile action abroad—

"(A) which is directed against the United States during the hostage period, and

"(B) which is identified by the Secretary of State in the Federal Register

"(5) The term 'missing status'—

"(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code [par. (5) of this section];

"(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code [section 551(2) of Title 37, Pay and Allowances of the Uniform Services]; and

"(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

"(6) The terms 'pay and allowances', 'employee', and 'agency' have the meanings given to such terms in section 5561 of title 5, United States Code [this section], and the terms 'civil service', 'uniformed services', and 'armed forces' have the meanings given to such terms in section 2101 of such title 5 [section 2101 of this title].

"PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

"Sec. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code [section 5563 of this title].

create a substantive right for judges to accrue annual leave and be paid for the leave when employee leaves government service, that section and subsec (a) of this section, authorizing a lump-sum payment of accrued annual or vacation leave to which an employee is statutorily entitled, taken in conjunction, could not fairly be interpreted to mandate compensation by the government, and thus Claims Court was without jurisdiction to entertain former superior court judge's action seeking lump-sum payment for unused annual vacation leave. Alexander v. U.S., 1984, 5 Cl.Ct. 57.

Subsec. (a) of this section does not affect an employee's right to holiday pay before his separation date. 1982, 61 Comp.Gen. 363.

This section contemplates an actual separation from government service and does not apply to a transfer such as resignation from a government agency and re-employment in a second government agency the following day and consequently a lump sum payment to an employee separated by the United States Information Agency and appointed by the Air Force the next day was erroneous. 1980, 59 Comp.Gen. 335.

tions which the Secretary of State shall prescribe)

"(4) The term 'captive status' means a missing status arising because of a hostile action abroad—

"(A) which is directed against the United States during the hostage period, and

"(B) which is identified by the Secretary of State in the Federal Register.

"(5) The term 'missing status'—

"(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code [par. (5) of this section];

"(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code [section 551(2) of Title 37, Pay and Allowances of the Uniform Services], and

"(C) in the case of other individuals, has a similar meaning as that provided under such sections, as de-determined by the Secretary of State.

"(6) The terms 'pay and allowances', 'employee', and 'agency' have the meanings given to such terms in section 5561 of title 5, United States Code [this section], and the terms 'civil service', 'uniformed services', and 'armed forces' have the meanings given to such terms in section 2101 of such title 5 [section 2101 of this title].

"PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

"Sec. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code [section 5563 of this title],

under section 553 of title 37, United States Code [section 553 of Title 37], or under any other provision of law.

"(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

"(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code [section 5563 of this title], (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) [section 553 of Title 37] and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"MEDICAL AND HEALTH CARE AND RELATED EXPENSES

"Sec. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

"(1) is incident to that individual being an American hostage, and

"(2) is not covered by insurance.

"EDUCATION AND TRAINING

"Sec. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

"(A) after the ninetieth day after the date the individual is placed in a captive status, and

"(B) on or before—

"(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

"(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of

cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B)

"(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death

"(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code [section 1700 et seq of Title 38, Veterans' Benefits].

"(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution

"(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

"(A) after the termination of such hostage's captive status, and

"(B) on or before—

"(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

"(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date

"(e) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code [section 1724 of Title 38].

"(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

"(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code [sections 1700 et seq. and 1770 et seq. of Title 38, respectively].

"EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

"Sec. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C.App. 501 et seq.) [section 501 et seq. of Title 50 App., War and National Defense], including the benefits provided by section 701 (50 U.S.C.App. 591) [section 591 of Title 50 App.] but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C.App. 514, 515, 516, 540 through 548, 561 through 572,

and 574) [sections 514, 515, 516, 540 through 548, 561 through 572, and 574 of Title 50 App.]

"(b) In applying such Act for purposes of this section—

"(1) the term 'person in the military service' is deemed to include any such American hostage;

"(2) the term 'period of military service' is deemed to include the period during which such American hostage is in a captive status; and

"(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

"(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 [section 501 et seq. of Title 50 App.] by reason of being in the Armed Forces.

"APPLICABILITY TO COLOMBIAN HOSTAGE

"Sec. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Columbia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

"EFFECTIVE DATE

"Sec. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

"TITLE II—TAX PROVISIONS

"Sec. 201. Compensation excluded from gross income.

"For purposes of the Internal Revenue Code of 1954 [section 1 et seq. of Title 26], the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

"(1) in captive status, or

"(2) hospitalized as a result of such individual's captive status.

"Sec. 202. Income taxes of hostages where death results from captive status.

"(a) General rule.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

"(1) any tax imposed by subtitle A of the Internal Revenue Code of 1954 [section 1 et seq. of Title 26] shall not apply with respect to—

"(A) the taxable year in which falls the date of such individual's death, or

"(B) any prior taxable year ending on or after the first day such individual was in captive status, and

"(2) any tax imposed under such subtitle A [section 1 et seq. of Title 26] for taxable years

preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

"(A) shall not be assessed.

"(B) if assessed, the assessment shall be abated, and

"(c) if collected, shall be credited or refunded as an overpayment.

"(b) Death must occur within 2 years of cessation of captive status.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

"Sec. 203. Spouse may file joint return.

"(a) General rule.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 [section 6013(a) of Title 26] for any taxable year—

"(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

"(2) for which such spouse is otherwise entitled to file such a joint return.

"(b) Certain rules made applicable.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code [section 6013(f)(2) and (4) of Title 26] (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f) [section 6013(f)(1) of Title 26].

"Sec. 204. Time for performing certain acts postponed by reason of captive status.

"(a) General rule.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

"(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 [section 7508(a)(1) of Title 26] was performed within the time prescribed therefor, and

"(2) the amount of any credit or refund (including interest).

"(b) Application to spouse.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

"(c) Section 7508(d) made applicable.—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 [section 7508(d) of Title 26] shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508 [section 7508(a) of Title 26].

preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

"(A) shall not be assessed.

"(B) if assessed the assessment shall be abated, and

"(c) if collected, shall be credited or refunded as an overpayment.

"(b) Death must occur within 2 years of cessation of captive status.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

"Sec. 203. Spouse may file joint return.

"(a) General rule.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 [section 6013(a) of Title 26] for any taxable year—

"(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

"(2) for which such spouse is otherwise entitled to file such a joint return.

"(b) Certain rules made applicable.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code [section 6013(f)(2) and (4) of Title 26] (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f) [section 6013(f)(1) of Title 26].

"Sec. 204. Time for performing certain acts postponed by reason of captive status.

"(a) General rule.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

"(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 [section 7508(a)(1) of Title 26] was performed within the time prescribed therefor, and

"(2) the amount of any credit or refund (including interest)

"(b) Application to spouse.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

"(c) Section 7508(d) made applicable.—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 [section 7508(d) of Title 26] shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508 [section 7508(a) of Title 26].

"Sec. 205. Definitions and special rules.

"(a) American hostage.—For purposes of this title, the term 'American hostage' means any individual who, while—

"(1) in the civil service or the uniformed services of the United States, or

"(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in captive status during the hostage period.

"(b) Hostage period.—For purposes of this title, the term 'hostage period' means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

"(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

"(2) December 31, 1981.

"(c) Captive status.—For purposes of this title—

"(1) In general.—The term 'captive status' means a missing status arising because of a hostile action abroad—

"(A) which is directed against the United States during the hostage period, and

"(B) which is identified by the Secretary of State in the Federal Register.

"(2) Missing status defined.—The term 'missing status'—

"(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code [par. (5) of this section].

"(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code [section 551(2) of Title 37], and

"(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term 'employee' has the meaning given to such term by section 5561(2) of title 5, United States Code [par. (2) of this section].

"(d) Hospitalized as a result of captive status.—

"(1) In general.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

"(2) 2-year limit.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

"(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

"(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

"(e) Civil service; uniformed services.—For purposes of this section, the terms 'civil service' and 'uniformed services' have the meanings given to such terms by section 2101 of title 5, United States Code [section 2101 of this title].

"(f) Application of title to all Tehran hostages.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

"(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

"(b) if such individual was not in the civil service or the uniformed services of the United States—

"(A) section 201 shall be applied by substituting 'earned income (as defined in section 911(b) of the Internal Revenue Code of 1954) [section 911(b) of Title 26] attributable to' for 'compensation from the United States received for', and

"(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

"(g) Application of title to individual held captive in Colombia.—For purposes of this title, Richard Starr of Edmonds, Washington, who as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

"(h) Special rules.—

"(1) Compensation.—For purposes of this title, the term 'compensation' shall not include any amount received as an annuity or as retirement pay.

"(2) Wage withholding.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954 [section 3401 et seq of Title 26].

"Sec. 206. Study of tax treatment of hostages.

"(a) Study.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

"(b) Report.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

"TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

"VISITS BY THE INTERNATIONAL RED CROSS

"Sec. 201. (a) The Congress finds that—

"(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran, and

"(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

"(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

"(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages

are being treated in a humane and decent manner and whether they are receiving proper medical attention.

"(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross, and

"(3) report to the United States its findings after each such visit."

Release of American Hostages in Iran. For Executive Order provisions relating to the release of the American hostages in Iran, see Ex.Ord. Nos. 12276 to 12285, Jan. 19, 1981, 46 F.R. 7913 to 7932, set out as notes under section 1701 of Title 50, War and National Defense

EXECUTIVE ORDER NO. 12268

Jan. 15, 1981, 46 F.R. 4671

IMPLEMENTATION OF HOSTAGE RELIEF ACT OF 1980

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96-449, 94 Stat. 1967; U.S.C. 5561 note) [set out as a note under this section] and Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and in order to provide for the implementation of that Act, it is hereby ordered as follows.

1-101. The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage

Relief Act of 1980 (5 U.S.C. 5561 note) [set out as a note under this section] are delegated to the Secretary of State.

1-102. The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act [set out as a note under this section]

JIMMY CARTER

EXECUTIVE ORDER NO. 12313

July 13, 1981, 46 F.R. 36689

SPECIFICATION OF HOSTAGE RETURN DATE UNDER HOSTAGE RELIEF ACT OF 1980

By the authority vested in me as President of the United States of America by sections 101(2)(A) and 205(b)(1) of the Hostage Relief Act of 1980 (Public Law 96-449, 94 Stat. 1967, 1972; 5 U.S.C. 5561 note) (the "Hostage Act") [set out as a note under this section], it is hereby ordered, for the purposes of these sections of the Hostage Act, that January 11, 1981, is specified as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or

otherwise accounted for, and were no longer under foreign control.

RONALD REAGAN

Cross References

Limitation on aggregate period for which assistance may be received under the Hostage Relief Act of 1980 and other provisions of law, see section 1795 of Title 38, Veterans' Benefits.

Restriction on concurrent receipt of benefits under the Hostage Relief Act of 1980 and other provisions of law for pursuit of the same education program, see section 1781 of Title 38

Code of Federal Regulations

General provisions, see 32 CFR 716.1.

§ 5562. Pay and allowances; continuance while in a missing status; limitations

Legislative History. For legislative history and purpose of Pub.L. 96-54, see 1979 U.S. Code Cong. and Adm. News, p. 931.

H 1912

CONGRESSIONAL RECORD — HOUSE

April 4, 1985

We recognize that U.S. citizens are not the only victims of anti-American terrorism. Family members of employees and foreign nationals working for the United States abroad are often caught up in the same violence directed against their American employers. For example, 88 Lebanese were killed or injured in the two bombings of the American Embassy in Beirut.

The legislation provides compensation for such individuals who are killed or disabled as a result of a hostile act directed against the United States. There is an offset for any worker's compensation benefits provided locally that are funded in whole or in part by the United States.

I urge my colleagues to join me in supporting this legislation. The least we can do for those who have been taken captive is to make their lives a little easier when they are released. And we should establish permanent law on this subject, so we are not faced with politically charged and urgent decisions, as we were in 1980.

OILS WELL THAT ENDS WELL

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker—
OILS WELL THAT ENDS WELL

Now entrepreneurship is well,
But the state of the Union's not well.
In the guise of "free market,"
It's but a fat target
For those who buy short and then sell.
As corporate minions assemble,
The weak-kneed among them may tremble.
With management ducking.
The firm's ripe for plucking.
And vultures swoop in to disassemble.
As takeover plots go, it's easy:
The wooing of stockholders—breezy.
It's full speed ahead
Til the company's bled.
The motive, not method, is sleazy.
Our energy needs notwithstanding,
There's often a lot of grandstanding.
Forget off-shore drilling.
The coffers need filling.
Reap profits before the crash landing.
So taxpayers wince at their lickin's;
Stockholders get mad as the dickens.
They find none too soon
That the new chief's no Boone.
Just their wallets are ripe for the Pickens.

□ 1140

MEDICARE IS SOLVENT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, in February, President Reagan submitted a budget that continues to shift Medicare costs onto the backs of the elderly. There was nothing new about that. Devastating Medicare cuts have been as constant as the changing seasons during the Reagan years. The adminis-

tration has argued time and again that the elderly must pay more for less because Medicare is swiftly going bankrupt.

Yet now we find that it is the administration's credibility that is going bankrupt. Last week, the Medicare trustees reported that the program is expected to remain solvent far longer than previously expected. In fact, while earlier estimates had projected a deficit by 1987, the latest estimates do not anticipate any serious difficulties until almost the turn of the century.

Now that is good news. No longer is there justification for depriving our elderly citizens of the health care coverage they earned through payroll contributions. We should pay serious attention to a long-term program of overall health care cost controls but we should forcefully reject the Reagan budget proposals that would continue to unfairly burden the elderly, who have already done more than their share to save Medicare.

NO REPRESENTATION IN INDIANA'S EIGHTH CONGRESSIONAL DISTRICT

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

Mr. COBEY. Mr. Speaker, I know that it has been disturbing to the majority leadership that we freshmen continue to come to the well to speak to the Rick McIntyre affair in the Indiana Eighth District. But until this injustice is rectified, we intend to continue to speak out.

I have here before me what is known as a congressional insert sent to my office by a Prof. William Tonso from the Eighth District of Indiana. A constituent can request that their Congressman insert something into the RECORD such as this material. But Professor Tonso has no Congressman to make this request.

This is an excellent article on the nature of gun control and crime in this Nation.

Rick McIntyre was elected to represent his constituents in the Eighth District. He is being denied his rightful place in this House even though he holds a certification for this seat. Consequently the constituents, over half a million of them, constituents like Prof. William Tonso, are being denied representation.

I would like to direct your attention to "Calling the Shots," a recent article by Prof. William Tonso, sociologist at the University of Evansville, IN. Professor Tonso exposes the biased and superficial nature of most of the reporting concerning "gun control" and crime in America. The article raises important questions regarding the debate on a crucial issue in a free society.

"Gun control" is one of the most hotly contested issues in American

politics. As a firm believer in the sanctity of the Constitution, I have always held that the right to keep and bear arms for self-protection and defense of the community is inviolable. Yet this right is continuously under attack from the gun prohibitionists and an elite, urban media. These media "elitists," as Professor Tonso calls them, believe that: guns, especially handguns, are evil in themselves; "all reasonable and informed Americans want to do something about the 'gun problem,'" and America is the only modern, urban, industrial nation without effective "gun control" laws. These perceptions result in an antigun bias permeating crime reports or news connected with firearms.

Although these assumptions held by the media have been shattered by impeccable research conducted during the past decade, the American public has never learned the truth. Scholarly research has been unable to penetrate the mass of antigun hysteria devoted to the "procontrol" position in the nation's media. In terms of sheer numbers, Professor Tonso points out that "procontrol information and arguments get 37 inches of print to every anticontrol inch in the print media and more than 7 minutes to every minute in the electronic media." Is there another issue of such importance that receive such slanted coverage?

Had the facts on "gun control" been reported in the major media, the debate about this subject would by now be closed. Professor Tonso points specifically to media blindness regarding the most comprehensive piece of research yet conducted on this subject: a 3-year study, entitled "Weapons, Crime and Violence in America: A Literature Review and Research Agenda," undertaken through a grant from the Justice Department's National Institute of Justice. Ironically, Prof. James Wright and Peter Rossi began this study accepting the procontrol position espoused by the media. By the time they completed their review and analysis of all existing research on the issue, they had backed away from their earlier positions.

The facts uncovered by Professors Wright and Rossi undermine the distorted assumptions held by the media and the antigun lobby. There is no evidence of a domestic "arms race" in response to a fear of crime. Contrary to what has been reported, there is no conclusive evidence linking gun ownership to crime. Although antigun forces would have us believe otherwise, there is little public support for handgun bans or harsh restrictions on gun ownership. Of the 20,000 existing gun laws in this country, there is little evidence to suggest that any have reduced violent crime. Finally, these eminent sociologists, after 3 years of exhaustive research, concluded that: "The prospects for ameliorating the problem of criminal violence through stricter controls

* With apologies to Curly, Larry, and Moe.

April 4, 1980

CONGRESSIONAL RECORD — HOUSE

steps at 4 o'clock this afternoon. We can only go forward.

REINTRODUCTION OF DEFENSE TARIFFS BILL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, our trade deficit with Japan is out of hand. I continue to hear great tales of Japanese good intentions but nothing changes.

The fact is that it is no one's fault but our own that the Japanese do not trade fairly with us. We have never gotten tough. In fact, our military unilaterally protects their sealanes, insuring the free flow of Japanese products that flood our markets. The Japanese devote the same attention to sharing free world defense costs as they do to fair trade—very little.

It is time to stop talking and start acting. Today, my colleague, Mr. RITTER, and I are introducing the defense tariffs bill. This will give the President the power to impose tariffs on imports from Japan, NATO, and France to recover the amounts we spend on their defense.

Our aim is to provide the President with a new and powerful bargaining tool in negotiations with our allies, notably Japan, to arrive at fair trade and a more equitable allocation of the costs of defending the free world.

THE LID ABOUT TO BLOW ON TRADE DEFICITS

(Mr. HUCKABY asked and was given permission to address the House for 1 minute.)

Mr. HUCKABY. Mr. Speaker, I would like to commend the gentleman who just appeared in the well. I think he is right on the mark.

America is at the leading edge of technology in telecommunications. That is why Japan is dragging its feet to open up its market.

We have a tremendous deficit with the Japanese today. Japan says that we do not understand their system. We do not understand what they are doing.

I would suggest they do not understand us in America. We have been here for years being beat at the conference table in these trade negotiations, but the kettle has been brewing. The lid is about to blow off. America is tired of having Japan's doors closed to them while our doors are open to them.

Hopefully, we can make significant breakthroughs in telecommunications, not like they did last year on the great beef deal, where they let in very small amounts of beef into Japan.

America's rice farmers receive one-tenth of the amount the Japanese rice farmer receives for this rice, yet we are prohibited from selling rice in Japan. It is time we stood up and got tough with the Japanese.

NINETY-SECOND DAY OF NO REPRESENTATION FOR INDIANA'S EIGHTH DISTRICT

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, this marks the 92d day since Members of this body were sworn into the 99th Congress and the 92d day that the residents of Indiana's Eighth District have been without representation here in this body.

In a blatant disregard for Indiana election laws, the Democrats have refused to seat Rick McIntyre. What on earth did the half a million people of Indiana Eighth do to deserve this? They elected a Republican in a fair and complete election.

What do they get in return? No representation. Who do they turn to to represent their views, to fight for hometown interests? Who do they turn to for an academy nomination? Who did they turn to last week when we voted on the MX—a benchmark vote?

One thing they have received, the people of that district, is a lesson in the arrogance of the Democratic majority in this House. It is arrogant to deny Rick McIntyre his seat on the basis of informal and unsubstantiated challenges. It is arrogant to throw out an election when no fraud has been alleged and no formal contest has been filed. It is arrogant to ignore Indiana laws by setting up a recount under new rules, all in the name of the same old goal: Preserving the Democratic majority here.

If there is a ballot dispute, let us settle it fairly; but first, let us honor the obvious outcome and the obvious wishes of half a million people in Indiana Eight. Let us seat Rick McIntyre.

AMERICAN GOVERNMENT WORKERS PRIME GAME FOR TERRORISTS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is sad, horrible fact that people working for the American Government are sometimes considered prime game for terrorists, political extremists, drug dealers, and kooks. While most of the recent incidents have been directed against Americans working abroad, law enforcement officials in the United States have also been targets. The murder of two AID accountants on a hijacked Kuwaiti plane in Teheran last December, and the kidnap and murder of DEA agent Enrique Camarena Salazar are two of the latest incidents where Americans have been kidnapped or killed because they work for the U.S. Government.

Joseph Reed, writing in the March 26, 1985, Wall Street Journal, recites the chilling litany:

In the past 2 years, three embassies have been obliterated, 19 U.S. diplomats assassinated, and 59 other have been victims of terrorist attack.

And a State Department employee recently wrote to me,

[G]overnment employees overseas, regardless of agency and whether they work in Africa, the Middle East, South America, or Paris, are terrorism targets purely because they are Government employees. Carrying a diplomatic or official passport can be an automatic death warrant.

We know that something has to be done to stop the carnage. The Foreign Affairs Committee has been pushing the administration for action on preventing terrorism. Yet, because terrorists strike without warning and in unpredictable ways, there is often little we can do until after the fact.

I am introducing legislation today which will provide benefits to U.S. Government employees who are taken captive as a result of their employment or who suffer from terrorist acts against the United States.

The legislation picks up from, and expands on, the temporary Hostage Relief Act we passed in 1980. This bill covers incidents whether they occur in Miami or Teheran. The bill amends title 5, United States Code, to provide compensation, health, and educational benefits to persons who are kidnapped or held captive as a result of hostile action directed against the United States, whether abroad or on American soil. Benefits are provided to employees and contractors of the Federal Government, and members of their families. The bill does not cover members of the Armed Forces because they are covered by other laws.

The bill has the following provisions:

First, where an employee is held as a captive, his or her pay will be deposited into an interest-bearing savings fund.

Second, captives and their families will receive payment for medical and health care expenses not covered by insurance, including psychological counseling or other needed care.

Third, the President is directed to make a cash payment to the individuals taken hostage in Iran on November 4, 1979, as well as to persons taken captive since that date. The President may consider the length of captivity and severity of treatment in determining the amount of the cash payment. A Presidential Commission recommended that the Iranian hostages receive \$12.50 a day for each of their 444 days of captivity. This money has never been paid.

Fourth, civil lawsuits and judgments against an individual are put on hold while that person is a captive.

Fifth, educational benefits for a spouse and children are provided, if the employee is held captive longer than 90 days. After release, the former captive may also be provided with educational benefits under certain circumstances.