in which such gateway city is located, if an employer in the place to which such immigrant is to travel under the grant certifies that such employer will employ that immigrant. In addition, the Secretary is authorized to make grants of up to $250 to each member of an immigrant's immediate family to enable such member to accompany the immigrant in travel assisted under this subsection.

(b) The United States Employment Service is directed to establish and maintain programs in gateway cities of job referrals for immigrants to jobs available in States other than that in which such gateway city is located.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There are authorized to be appropriated such sums as are necessary for the purposes of grants under sections 5, 6, and 7. If sufficient funds are not appropriated for any fiscal year for the purposes of grants under sections 5, 6, and 7 no funds shall be allocated under section 7 until all funds available shall have been allocated under section 6, and no funds shall be allocated under section 6 until all funds available have been allocated under section 5.

(b) There is authorized to be appropriated the sum of $20,000,000, to remain available until expended, for grants and programs under sections 8(a) and 8(b).

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 3741. A bill to require the disclosure of payments to foreign officials and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce for myself and Mr. PEARSON, by request, a bill to require the disclosure of payments to foreign officials and for other purposes.

Mr. President, the Secretary of Commerce has submitted a letter and draft bill of proposed legislation entitled "Foreign Payments Disclosure Act." I ask unanimous consent that the text of the bill, an analysis of the bill, and the statement of purpose and need, prepared by the Department of Commerce, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Payments Disclosure Act".

DEFINITIONS

SEC. 2. For purposes of this Act:

(a) "person" means:

(1) an individual who is a citizen of the United States;

(2) an individual who has been lawfully admitted for permanent residence as described in section 101(a)(20) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(20)); or

(3) a legal entity, other than a noncommercial government entity, organized under the laws of the United States or a State or political subdivision thereof;

(b) "anything of value" means any direct or indirect gain or advantage, or anything that might reasonably be regarded by the beneficiary as a direct or indirect gain or advantage, including a direct or indirect gain or advantage to any other individual or entity;

(c) "foreign affiliate" means a legal entity organized under the laws of a foreign country, or political subdivision thereof, at least 50 percent of which is beneficially owned directly or indirectly by a person or persons subject to the provisions of this Act;

(d) "Secretary", unless otherwise specified, means the Secretary of Commerce;

(e) "foreign public official" means:

(1) an officer or employee, whether elected or appointed, of a foreign government; or

(2) an individual acting for or on behalf of a foreign government;

and includes an individual who has been nominated or appointed to be a foreign public official or who has been officially informed that he will be so nominated or appointed;

(f) "official action" means a decision, opinion, recommendation, judgment, vote, or other conduct involving an exercise of discretion by a foreign public official in the course of his employment;

(g) "State" means a State of the United States, the District of Columbia, Puerto Rico, or any territory or possession of the United States; and

(h) "foreign government" means:

(1) the government of a foreign country, irrespective of recognition by the United States;

(2) a department, agency, or branch of a foreign government;

(3) a corporation or other legal entity established or owned by, and subject to control by, a foreign government;

(4) a political subdivision of a foreign government, or a department, agency, or branch of the political subdivision; or

(5) a public international organization.

REPORTING REQUIREMENTS

SEC. 3. A person shall report to the Secretary, in accordance with regulations promulgated by the Secretary, payments hereafter made on behalf of the person or the person's foreign affiliate to any other individual or entity in connection with: An official action, or sale to or contract with a foreign government, for the commercial benefit of the person or his foreign affiliate.

RECORDING REQUIREMENTS

SEC. 4. In order to insure that a person who is required to report under section 3 of this Act has sufficient information in his possession to report accurately, the Secretary may promulgate rules and regulations requiring such person to keep such records, in the form and manner prescribed by the Secretary, as he deems necessary to carry out the purpose of this Act. In devising the recordkeeping requirements, the Secretary shall consult with other Federal agencies to eliminate unnecessary duplication in records required by the agencies. The agencies are authorized, where appropriate, to combine in a single form the records required under this Act and under any other Act.

ENFORCEMENT; COMPLIANCE WITH REQUIREMENTS

SEC. 5. To the extent necessary or appropriate to the enforcement of this Act, the Secretary, and officers and employees of the Department of Commerce specifically designated by the Secretary, may make such investigations and obtain such information from, make such inspections of the books, records, and other writings of, and take the sworn testimony of, any individual or entity. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any individual or entity to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such individual or entity, the district court of the United States for any district in which such individual or entity is found or resides or transacts business, upon application by the Attorney General, and after notice to any such individual or entity and hearing, shall have jurisdiction to issue an order requiring such individual or entity to appear and give testimony, or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

CIVIL REMEDIES

SEC. 6. (a) CIVIL PENALTIES.—A person who fails to file a report required under section 3 of this Act, or who fails to maintain the records required under section 4, or who files a report under section 3 but negligently omits information required to be reported under section 3 or negligently states false information required to be reported under section 3, shall be subject to a civil penalty of not more than $100,000.

(b) INJUNCTION.—Upon evidence satisfactory to the Attorney General that a person is engaged in an act or practice that constitutes a violation of this Act, the Attorney General may bring an action in a district court of the United States to enjoin such an act or practice, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted by the court together with such other equitable relief as may be appropriate.

SEC. 7. (a) FAILURE TO FILE.—A person who knowingly: (1) fails to file a report required under section 3 of this Act;

(2) fails to maintain records required under section 4 of this Act; or

(3) omits required information from, or falsifies information in, records kept under section 4 of this Act;

shall be fined not more than $10,000 or imprisoned for not more than one year, or both, except that a legal entity shall be fined not more than $100,000.

(b) KNOWING FALSIFICATION.—A person who files a report required by this Act which he knows or should know contains a false statement, or which he knows or should know omits required information, shall be fined not more than $100,000 and imprisoned not more than three years, except that a legal entity shall be fined not more than $500,000.

DISSEMINATION OF REPORTS

SEC. 8. (a) DISSEMINATION WITH THE UNITED STATES.—The Secretary shall, upon receipt of a report, disseminate copies of the report to the Department of Justice, the Department of State, and the Internal Revenue Service. If the person who filed the report is subject to the jurisdiction of the Securities and Exchange Commission, the Secretary shall also transmit a copy of the report to the Securities and Exchange Commission. Until the report is released to the public, it shall be maintained in accordance with section 1905 of title 18, United States Code. The report shall be transmitted, upon request, subject to an appropriate arrangement to assure its confidentiality, to Committees of the Congress having legislative jurisdiction over the subject matter of the report. A report shall be made public one year after receipt in accordance with rules and regulations promulgated by the Secretary, unless

Approved For Release 2005/08/03 : CIA-RDP79-00957A000100100025-2

the Secretary of State makes a specific determination in writing that foreign policy interests dictate against disclosure, or unless the Attorney General makes a specific determination in writing that the status of an ongoing investigation or prosecution dictates against public disclosure through other than conventional judicial processes.

(b) DISSEMINATION TO A FOREIGN GOVERNMENT.—The Attorney General, with the concurrence of the Secretary of State, may furnish any information contained in a report made under this Act to the appropriate law enforcement authorities of the foreign government concerned in accordance with applicable procedures and international agreements. The Secretary of State, with the concurrence of the Attorney General, may provide any such information to the foreign government concerned.

REGULATIONS

SEC. 9(a). PROMULGATION OF REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the purposes of this Act. The regulations shall include:

(1) a requirement that the report include the name of every recipient who receives anything of value over a specified amount and the amount received by each such recipient;

(2) a requirement that the report include information concerning multiple payments with respect to a single transaction which total over a specified amount, and

(3) a definiton of certain types of payments which are not required to be reported because they are regular business payments not inconsistent with the purposes of this Act, or are bona fide payments to a foreign government, such as taxes or fees paid pursuant to duly promulgated laws, regulations, decrees, or other legal action.

(b) CONSULTATION WITH OTHER AGENCIES.—In devising the reporting regulations, the Secretary shall consult with other federal agencies to eliminate unnecessary duplication in reports required by the agencies. The agencies are authorized, where appropriate, to combine in a single form the reports required under this Act and under any other act.

CONFORMING AMENDMENT

SEC. 10. The provisions of this Act, other than section 9(b), shall not apply to payments made in connection with (a) sales of defense articles or defense services under section 22 of the Arms Export Control Act or (b) commercial sales of defense articles or defense services licensed or approved under section 38 of the Arms Export Control Act.

PROVISIONS OF LAW NOT AFFECTED

SEC. 11. (a) RIGHTS AND DUTIES UNDER OTHER LAWS UNAFFECTED.—Nothing in this Act shall be construed as affecting the rights or duties arising under the Securities Act of 1933, 15 U.S.C. 77a et seq., the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., the Public Utilities Holding Company Act of 1935, 15 U.S.C. 79a et seq., the Trust Indenture Act of 1939, 15 U.S.C. 77aaa, the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., and the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 et seq., and any subsequent amendments thereto. Persons subject to this Act shall be required to make such public disclosure of the matters described in section 3 of this Act as may be otherwise required under the statutes listed above. Nothing in this Act shall preclude persons reporting pursuant to the provisions of this Act from making public disclosure of any payment described in section 3.

(b) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION.—Nothing in this Act shall be construed as affecting or conditioning the authority of the Securities and Exchange Commission to enforce the statutes listed in subsection (a) or to investigate violations thereof. The Commission shall have the authority to premise such enforcement or investigation on information received pursuant to section 8(a) of this Act.

RIGHTS AND REMEDIES PRESERVED

SEC. 12. The rights and remedies provided by this title shall be in addition to, and shall not be in derogation of, any and all other rights and remedies that may exist at law or in equity.

PROPOSED FOREIGN PAYMENTS DISCLOSURE ACT

SECTION-BY-SECTION ANALYSIS OF THE BILL

Short title

Section 1 of the bill provides that it may be cited as the Foreign Payments Disclosure Act.

Definitions

Section 2 defines certain terms used in the bill. "Person" is defined to mean individuals who are the citizens or resident aliens of the United States or legal entities organized under the laws of the United States or any state or political subdivision thereof. An exception is made for government entities which are not organized for commercial purposes. Federal, state or local government entities having commercial or trade promotion purposes would be subject to the Act.

"Anything of value" is defined broadly to include any direct or indirect gain or advantage to a direct beneficiary or to any third party beneficiary.

"Foreign affiliate" is defined to mean any legal entity organized under the laws of a foreign country, whenever it is at least 50 percent beneficially owned by persons subject to the Act. More complex definitions of ownership or control were rejected for the purposes of clarity and simplicity of administration.

"Foreign public official" is defined to mean an officer or employee of a foreign government, whether elected or appointed, or an individual acting for or on behalf of a foreign government. The term further is defined to include an individual who has been nominated or appointed to be a foreign public official but who has not yet formally entered office.

"Official action" is defined to mean any decision, opinion, recommendation, judgment, vote, or other conduct involving an exercise of discretion by a foreign public official in the course of his employment.

"Foreign government" is defined broadly to include any government of a foreign country, a department or agency thereof, a corporation or other legal entity under control of a foreign government; any political subdivision of a foreign government; and any public international organization.

Reporting requirements

Section 3 of the bill sets forth classes of payments which must be reported to the Secretary of Commerce in accordance with regulations promulgated by the Secretary. These include payments made, after passage of the bill, on behalf of a person subject to the Act or the person's foreign affiliate to any other individual or entity in connection with: an official action, or sale to or contract with a foreign government for the commercial benefit of the person or his foreign affiliate.

This reporting requirement will be further delineated by the issuance of regulations pursuant to Section 9(a) of the bill, which requires the Secretary, by regulation, to set a threshold amount below which payments need not be reported, and to define types of payments which need not be reported. Thus, while the reporting requirements of the bill will extend to proper as well as improper or illegal payments, the regulations issued by the Secretary will exclude from reporting certain regular business payments not inconsistent with the purposes of the bill and bona fide payments such as taxes.

The terms "individual or entity," as used in Section 3, refer to foreign public officials, foreign governments, and agents or intermediaries used in connection with covered transactions or official actions.

Recordkeeping requirements

Section 4 allows the Secretary of Commerce to promulgate rules and regulations prescribing record keeping necessary to carry out the purposes of the Act. The Secretary is to consult in the design of these record keeping requirements with other federal agencies so as to eliminate unnecessary duplication of record keeping. It is anticipated that the SEC's record keeping requirements for firms regulated by the SEC may suffice for purposes of compliance with this bill.

Enforcement

Section 5 grants the Secretary of Commerce authority to inspect books and records, issue subpoenas and take sworn testimony as necessary and appropriate to the enforcement of the Act.

Civil remedies

Section 6 provides a civil penalty of not more than $100,000 for failure to file a report required by Section 3, failure to maintain records required by Section 4, or for negligent omission or inclusion of false information in a report required under Section 3. Section 6 also gives the Secretary the power to request the Attorney General of the United States to bring an action in federal district court to enjoin a person from continuing to engage in any act or practice that constitutes a violation of the bill.

Criminal penalties

Section 7(a) provides criminal penalties for knowing violations of the requirements of Sections 3 and 4 of the Act. Individuals may be fined not more than $10,000 or imprisoned for not more than one year, and a fine of $100,000 is provided for legal entities such as corporations. Section 7(b) penalizes as a felony, knowing falsification of reports required by Section 3. Individual offenders may be fined not more than $100,000 and imprisoned not more than three years. A legal entity is subject to a criminal fine of up to $500,000.

Dissemination of reports

Section 8(a) requires the Secretary, upon receipt of a report, to disseminate it to the Departments of State and Justice, the Internal Revenue Service and, where appropriate, to the Securities and Exchange Commission.

Section 8(b) states that the Department of Justice or the State Department can, as appropriate, relay information contained in such reports to authorities in foreign jurisdictions. Except for the aforementioned dissemination, the Secretary of Commerce must keep reports confidential in accordance with 18 U.S.C. § 1905, for one year from date of receipt. This one-year period will help protect business competitive information and

lessen possible foreign relations problems. Reports are to be shared, however, upon request and subject to appropriate assurances of confidentiality, with Committees of Congress having appropriate legislative jurisdiction. After the expiration of the one-year period, reports are to be available for public inspection and copying, unless a specific determination is made in writing by the Secretary of State that foreign policy interests dictate against public disclosure, or the Attorney General makes a specific determination in writing that the status of an ongoing investigation or prosecution dictates against public disclosure through other than conventional judicial processes.

Regulations

Section 9(a) grants the Secretary of Commerce broad regulatory authority.

Regulations are to include a requirement that names of recipients of payments be reported. Further, they are to contain a difinition of types of payments not required to be reported because they are regular business payments not inconsistent with the purposes of the Act, or are bona fide payments to a foreign government, such as taxes or fees paid pursuant to law, regulation, decree or other action.

In addition, in accordance with Section 9 (a)(1), the Secretary is to set a threshold amount below which payments need not be reported. An exception is made to this threshold concept for multiple payments totaling the threshold amount with respect to a single transaction. The purpose of this threshold will be to exclude so-called "grease" or "facilitating" payments, i.e., small payments made to expedite low level official actions such as customs processing. Reporting of such minor payments could create burdens far outweighing the benefits sought by the Act.

Section 9(b) directs the Secretary, in devising reporting regulations, to consult with other federal agencies to eliminate unnecessary duplication. Agencies are authorized, where appropriate, to combine in a single form, reports required under this bill and any other law.

Conforming Amendment

Section 10 states that the provisions of the Act, other than Section 9(b), shall not apply to certain salse of defense articles and services pursuant to the Arms Export Control Act. This exemption is based upon the fact that the Arms Export Control Act provides for comprehensive reporting to the State Department and the Congress of information regarding payments with respect to such transactions (Section 604 of P.L. 94-329).

Provisions of Law Not Affected

Section 11 makes clear that the requirements of the bill in no way alter or affect rights and duties arising under laws administered by the Securities and Exchange Commission. Similarly, it states that nothing in the bill is to be construed as affecting or conditioning the authority of the Securities and Exchange Commission. It provides further that the Commission shall have the authority to premise enforcement or investigative actions on information received under Section 8(a) of the bill from the Secretary of Commerce.

Rights and Remedies Preserved

Section 12 states that the bill does not take away any rights and remedies which may exist at law or in equity. Thus, nothing in the bill should be construed to affect rights and remedies of individuals who may bring shareholder derivative suits under state law.

PROPOSED FOREIGN PAYMENTS DISCLOSURE ACT: STATEMENT OF PURPOSE AND NEED

The proposed Foreign Payents Disclosure Act was prepared by the Cabinet-level Task Force on Questionable Corporate Payments Abroad, created by President Ford on March 31, 1976 to conduct a sweeping policy review of the questionable payments problem.

Based upon an interim report of the Task Force, President Ford on June 14 directed that legislation be prepared requiring reporting and disclosure of certain payments made in relation to business with foreign governments.

The proposed legislation is designed to help deter improper payments in international commerce by American corporations and their officers; to help restore the good reputation of American business; to help deter would-be foreign extorters from seeking improper rewards from American businessmen; and to set a forceful example to our trading partners and competitors regarding the imperative need to end improper business practices.

Most important, as stated by President Ford in his message to the Congress regarding this legislation, it: "will help restore the confidence of the American people and our trading partners in the ethical standards of the American business community. In so doing, it can yield substantial long-term benefits to American business, to American foreign policy, and to international commerce."

In deciding upon a legislative approach, the President and the Task Force: (i) reviewed the ongoing efforts of the Federal Government with regard to the questionable payments problem (ii) analyzed the adequacy of current laws in dealing with the problem; and (iii) evaluated alternative means to strengthen deterrence of improper payments and to increase confidence in American business.

ONGOING APPROACH TO THE QUESTIONABLE PAYMENTS PROBLEM

The current Administration approach to the questionable payments problem includes both (a) vigorous enforcement of current law and (b) pursuit of effective international payments.

(a) *Enforcement of current law*

Investigative enforcement activities are being conducted by the audit agencies, the Internal Revenue Service (IRS), the Federal Trade Commission (FTC), the Department of Justice, and the Securities and Exchange Commission (SEC).

The investigative activities of all these agencies are ongoing—and the product of their investigations will continue to emerge in accord with fair and orderly legal process.

It is reasonable to conclude that the exposures to date have increased the attentiveness of responsible enforcement agencies in general—and that they have increased the deterrent effect of current law thereby. A particularly noteworthy example is provided by the IRS's guidelines of May 10, 1976—requiring affidavits concerning "slush funds," bribes, kickbacks or other payments regardless of form, made directly or indirectly to obtain favorable treatment in securing business or special concessions; or made for the use or benefit of, or for the purpose of opposing any government, political party, candidate or committee.

As is well known, the SEC has played a leadership role in this area. Its prompt and vigorous actions to discover questionable or illegal corporate payments and to require public disclosure of material facts relating to them, is contributing an important measure of deterrence to such practices.

(b) *Pursuit of International Agreements*

The recent Organization for Economic Cooperation and Development (OECD) Ministerial Conference adopted the following declaratory policy:

"Enterprises should:

(i) not render—and they should not be solicited or expected to render—any bribe or other improper benefit, direct or indirect, to any public servant or holder of public office;

(ii) unless legally permissible, not make contributions to candidates for public office or to political organizations;

(iii) abstain from any improper involvement in local political activities.".

Ambassador Dent has asked the General Agreement on Tariffs and Trade to take up the questionable payments issue, as called for in Senate Resolution 265. The resolution proposes negotiation in the Multilateral Trade Negotiations of an international agreement to curb "bribery, indirect payments, kickbacks, unethical political contributions and other such similar disreputable activities." The U.S. has indicated that negotiation of such an agreement is a matter of top priority.

Most significantly, the U.S. has proposed negotiation in the United Nations of a treaty on corrupt practices. The proposal is for an agreement to be based on the following principles:

(i) It would apply to international trade and investment transactions with governments, i.e., government procurement and other governmental actions affecting international trade and investment as may be agreed;

(ii) It would apply equally to those who offer to make improper payments and to those who request or accept them;

(iii) Importing governments would agree to establish clear guidelines concerning the use of agents in connection with government procurement and other covered transactions, and establish appropriate criminal penalties for defined corrupt practices by enterprises and officials in their territory;

(iv) All governments would cooperate and exchange information to help eradicate corrupt practices;

(v) Uniform provisions would be agreed upon for disclosure by enterprises, agents and officials of political contributions, gifts and payments made in connection with covered transactions.

The proposal is currently under review in the UN Economic and Social Council (ECOSOC) with a strong U.S. recommendation that ECOSOC give the issue priority consideration.

The U.S. objective is to have ECOSOC pass a resolution on corrupt practices which will create a group of experts charged with writing the text of a proposed international treaty on corrupt practices and reporting that text back to ECOSOC in the summer of 1977. The U.S. goal would then be to forward an agreed text to the UN General Assembly for action in the fall of 1977.

It is the view of the President and the Task Force that the ultimate legal basis for adequately addressing the questionable payments problem must be an international treaty along the lines proposed by the United States. A treaty is required to make the "criminalization" of foreign bribery fully enforceable—for, in the absence of foreign cooperation, it would be extremely difficult, and in many cases impossible, for U.S. law enforcement officials and potential defendants to be assured of access to relevant evidence.

A treaty is also required to treat the actions of foreign as well as domestic parties to

a questionable transaction. And a treaty is required to assure that all nations, and the competing firms of differing nations, are treated on the same basis.

In order to advance the prospects of favorable international action with respect to the U.S. proposal, the State Department has coordinated a special series of direct representations to foreign governments. We will continue to pursue a satisfactory international agreement by every appropriate means.

While continuing to pursue the long-term approach toward an international agreement, it is nonetheless necessary to supplement current U.S. law—as indicated by the following discussion.

SUFFICIENCY OF CURRENT LAWS

The Task Force undertook a review and analysis of the sufficiency of current laws to deal with the problem of deterring questionable payments by American businessmen and to restore public confidence in business standards. It concluded that current law, while providing a number of indirect means to deal with the problem was not fully sufficient.

It is clear that existing securities laws and the Internal Revenue Code can have important bearing upon the questionable payments problem—the former by requiring disclosure of "material" improper payments, and the latter by denying tax deduction of illegal payments. In addition, vigorous application of securities and tax standards is prompting increased internal corporate accountability.

Further, the Task Force identified a range of antitrust provisions which might be applied to questionable or illegal payments abroad. However, effective application of these laws to transactions involving foreign payments is problematical. Finally, the Task Force identified a number of certification requirements imposed on companies doing business abroad with federal assistance, such as that provided by the Export-Import Bank and the Agency for International Development. Deliberate falsification of such certifications can give rise to criminal liability. Nevertheless, these certification requirements can only apply to firms which avail themselves of these federal assistance programs.

The Task Force is persuaded that the SEC's system of reporting and disclosure offers substantial deterrence to future improper practices by SEC-regulated firms. To further strengthen the SEC's capacity to perform its vital functions, the Administration endorsed—and will continue to support the enactment of—legislation first proposed by Chairman Hills of the SEC. By making explicit what is already implicit in the SEC's authorities, this legislation can enhance the effectiveness of the SEC disclosure system as it pertains to SEC-regulated companies by assuring integrity of corporate reporting systems and the accountability of corporate officials.

However, by no means all firms engaged in international commerce are regulated under the securities laws and subject to the disclosure requirements of the Commission. Also, the Commission requires disclosure of payments only when necessary or appropriate for the protection of investors. Further, it has not generally required reporting of the name of a recipient of a material, improper payment, a requirement which the Task Force believes can be an important deterrent to extorters. In addition, the Commission's system of disclosure—focusing as it does primarily on the interests of the investing public—is not designed to respond to some of the broader public policy and foreign relations interests related to the questionable payments problem.

Accordingly, the Foreign Payments Disclosure Act deals with all U.S. participants in foreign commerce—not just Commission regulated firms—and it calls for the active involvement of the Secretaries of State and Commerce and the Attorney General in administering a system which addresses the full range of public policy interests inherently involved in the questionable payments problem.

SELECTION OF "DISCLOSURE" RATHER THAN "CRIMINALIZATION" APPROACH

The Task Force considered two principal competing legislative approaches—a "disclosure" approach and a "criminalization" approach. While it is possible to design legislation which requires disclosure of foreign payments *and* makes certain payments criminal under U.S. law, the Task Force unanimously rejected this approach. The disclosure-plus-criminalization scheme would, by its very ambition, be ineffective. The existence of U.S. criminal penalties for certain questionable payments would deter their disclosure and thus the positive value of the disclosure provisions would be reduced. In the Task Force's opinion, the two approaches cannot be compatibly joined.

The Task Force carefully considered the option of "criminalizing", under U.S. law, improper payments made to foreign officials by U.S. corporations. Such legislation would have represented the most forceful possible rhetorical condemnation of such conduct. It would have placed business executives on clear and unequivocal notice that such practices should stop. It would have made it easier for some corporations to resist pressures to make questionable payments.

The Task Force concluded, however, that the criminalization approach would represent little more than a policy assertion, for the enforcement of such a law would be very difficult if not impossible. Successful prosecution of offenses—and fair defense in relation to such prosecutions—would typically depend upon access to witnesses and information beyond the reach of U.S. judicial process. Other nations, rather than assisting in such prosecutions, might resist cooperation because of considerations of national preference or sovereignty. Other nations might be especially offended if we sought to apply criminal sanctions to foreign-incorporated and/or foreign-managed subsidiaries of American corporations. The Task Force concluded that unless reasonably enforceable criminal sanctions were devised, the criminal approach would represent poor public policy.

Based upon analysis of the sufficiency of current law and of the options described above, the President decided to ask the Congress to enact legislation providing for full and systematic reporting and disclosure of payments in connection with their commercial relations with foreign governments.

PROPOSED LEGISLATION

The Foreign Payments Disclosure Act will require reporting to the Secretary of Commerce of certain classes of payments made by U.S. businesses and their foreign subsidiaries and affiliates in relation to business with foreign governments. Specifically, reports will be required of all payments made in connection with sales to or contracts with foreign governments or official actions by foreign public officials, where such are for the commercial benefit of the payor or his foreign affiliate.

The reporting requirement covers fees of agents and other intermediaries and political contributions as well as payments made directly to foreign public officials.

The legislation provides that the Secretary of Commerce shall issue regulations necessary to carry out its purposes. These regulations shall contain a requirement that reports include names of recipients of payments and shall establish a threshold amount below which payments need not be reported. An exception is made to this threshold concept for multiple payments totaling the threshold amount with respect to a single transaction. The purpose of this threshold will be to exclude so-called "grease" or "facilitating" payments, i.e., small payments to expedite low level official actions such as customs processing. Reporting of such minor payments could create burdens far outweighing the benefits sought by this legislation. The Secretary will further have the authority to define by regulation certain types of payments which will not be required to be reported because they are regular business payments not inconsistent with the purposes of the Act, or are bona fide payments to a foreign government such as taxes or other fees paid pursuant to law, regulation or other legal action.

The Secretary is also authorized to require, by regulation, the keeping of records necessary to carry out the purposes of the Act and to make investigations, inspect books and issue subpoenas as necessary and appropriate to the enforcement of the Act.

Civil penalties are provided for failures to report or maintain required records or negligent omissions or misstatements in reports filed. Criminal misdemeanor penalties are provided for knowing failures to file or to maintain records or to include complete or correct information in records. Filing of a report containing false statements of knowing omission of required information will be penalized as a criminal felony.

Reports filed pursuant to this legislation shall be kept confidential for one year from the date of filing so as to protect business proprietary concerns and to lessen possible foreign relations problems. On receipt, however, the reports submitted to the Secretary of Commerce would be made available to the Departments of State and Justice, the IRS and, where appropriate, to the SEC.

The Department of Justice or the State Department can as appropriate relay information contained in such reports to authorities in foreign jurisdictions. The reports will also be transmitted upon request and with appropriate arrangements for confidentiality to appropriate Committees of the Congress. After the expiration of the one-year period, reports will be made available for public inspection and copying unless a specific written determination is made by the Secretary of State that foreign policy interests dictate against public disclosure, or a specific written determination is made by the Attorney General that the status of an ongoing investigation or prosecution dictates against public disclosure through other than conventional judicial processes.

The bill will seek to avoid duplication of reporting and record keeping requirements. First, it exempts sales of defense articles or defense services under the arms Export Control Act from the reporting requirements. This exemption is based upon the fact that the Arms Export Control Act, as recently amended, provides for comprehensive reporting to the State Department and the Congress of information regarding payments with respect to such transactions. Second, the Secretary of Commerce is given authority to work with other agencies to eliminate

unnecessary duplication in reports and records. The legislation explicitly states that it is not designed to amend in any way current legal requirements relating to reporting and disclosure, enforced by other agencies of government such as the SEC and the IRS.

By Mr. HUGH SCOTT:

S. 3743. A bill to amend section 3102 of title 38, United States Code, relating to the recovery by the United States of certain payments made to veterans. Referred to the Committee on Veterans' Affairs.

Mr. HUGH SCOTT. Mr. President, today I am introducing legislation that will correct a "Catch 22" situation in our Federal bureaucratic machinery. "Catch 22" is a phrase Joseph Heller used in his war novel of that name to refer to bureaucratic illogic from which the hapless victim has no escape.

Tragically, a particular "Catch 22" in our Federal regulations enmeshed a late constituent of mine, John W. Perkis, a captain in the Air Force Reserve, in its web of frustration and illogic. Captain Perkis was mustered out of the service in a reduction in force. At that time, he received a $15,000 stipend for readjustment to civilian life. With this money he bought a home for his wife and two children and began a job as a probation officer with the Pennsylvania Parole Board.

There was only one problem with this new life: Captain Perkis felt ill much of the time. A physical examination resulted in the diagnosis of leukemia. The doctor confirmed that he had contracted the illness 2 years earlier, and that it had gone undetected by routine Air Force physicals.

Captain Perkis applied for a veteran's disability pension and received it—$740 a month. But then the catch intervened.

The Government said that since he was receiving the disability pay he was required to return 75 percent of the readjustment stipend. That would be $11,250. His disability checks would be withheld until repayment was made. The Air Force, to its great credit, tried its best to help Captain Perkis, but it was blocked at every turn by the unambiguous language of the statute.

On December 4, 1975, shortly after he and his family were informed of the catch, Captain Perkis died of the illness, an entire year before he would have begun collecting his pension benefits.

Mr. President, I find it distressing that an American who has served his country so well was forced to suffer in such a heartless manner. My bill attempts to ease the hardship on the veteran and his family if this highly unusual situation occurs again. It provides that if, after honorable discharge as a result of a reduction in force and the payment of the readjustment stipend, a reserve serviceman is diagnosed to have a service-connected illness that results in 100-percent disability:

First, repayment of the readjustment stipend shall be extended over a 10-year period with no interest charge; and

Second, the outstanding balance will be forgiven if the serviceman dies as a result of the service-connected illness prior to repayment of the entire stipend.

I believe this legislation deserves our support. The current regulations cast the Government in a most unfavorable light. I know you would agree if you had had to explain to Mrs. Perkis and her two small children that they would have to wait more than a year before they could receive any money, notwithstanding the fact that her husband was mortally ill with a service-connected disability.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S 3743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3102 of title 38, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by adding after subsection (b) a new subsection (c) as follows:

"(c)(1) In any case in which a veteran is determined to be entitled to compensation for a service-connected disability rated total in degree and the determination is made subsequent to the time such veteran was awarded a readjustment payment under section 687 of title 10 by the armed forces, the repayment of any amount of such readjustment payment required by law shall be made by the veteran over such period of time as the veteran may elect, not to exceed ten years from the date on which such veteran is first paid disability compensation. The veteran shall not be required to pay any interest on such readjustment payment.

"(2) In any case described in paragraph (1) in which the veteran dies as a result of his service-connected disability before the total amount of the readjustment payment has been repaid, the obligation to repay the unpaid balance shall be automatically cancelled.".

(b) Section 3102(e), as redesignated by subsection (a) of title 38, United States Code, is amended by striking out the period at the end of such section and inserting in lieu thereof the following: "or cancelled under subsection (c).".

SEC. 2. Nothing in this Act shall be construed to require the refund of any amounts repaid to the United States prior to the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 2925

At the request of Mr. MUSKIE, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 2925, the Government Economy and Spending Reform Act of 1976.

S 3441

At the request of Mr. HUGH SCOTT, the Senator from Maryland (Mr. BEALL) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 3441, relating to the Congressional Cemetery.

S. 3520

At the request of Mr. DOLE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3520, to extend the rural community fire protection program, and for other purposes.

S. 3606

At the request of Mr. INOUYE, the Senator from Tennessee (Mr. BROCK) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3606, to amend part B of title XI of the Social Security Act.

S. 3665

At the request of Mr. BEALL, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3665, a bill to amend the Internal Revenue Code of 1954.

AMENDMENT NO. 2155

At the request of Mr. FANNIN, the Senator from New York (Mr. BUCKLEY) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of amendment No. 2155, intended to be proposed to S. 2657, the Education Amendments of 1976.

SENATE RESOLUTION 513—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 3554

(Referred to the Committee on the Budget.)

Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs, reported the following original resolution:

S. RES. 513

Resolved, That the provisions of section 402(a) of the Congressional Budget Act of 1974 are waived with respect to S. 3554, a bill to establish a National Commission on Neighborhoods.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977—H.R. 14262

AMENDMENTS NOS. 2180 THROUGH 2185

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted six amendments intended to be proposed by him to the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

AMENDMENTS NOS. 2186, 2187, AND 2188

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted three amendments intended to be proposed by him to amendment No. 2146, intended to be proposed to the bill (H.R. 14262), supra.

ADDITIONAL STATEMENTS

S. 3720—PROMOTION OF THE AMERICAN SHRIMPING INDUSTRY

Mr. LONG. Mr. President, I want to congratulate my colleague from Florida (Mr. CHILES) for the outstanding work he is doing in sponsoring S. 3720, to insure the survival and good health of the American shrimping industry. I thank the Senator for the explanation of the bill he gave the Senate yesterday and appreciate in every instance the points he has covered. I fully support his efforts in this regard, and I am honored to be joining the Senator as an active cosponsor on this legislation.

I think it is long overdue that we give the kind of protection offered by S. 3720 to our shrimp industry, the kind of sensible and enforceable protection which these independent hardworking, conscientious fishermen so richly deserve.

Mr. President, I ask the Senate to take note of the fact, as Senator CHILES pointed out yesterday, that our country represents a market for approximately $200 million worth of shrimp each year from Mexico. A considerable fraction of all Mexican seafood production comes into our markets.

However, in recent talks with Mexican officials, I am informed that our Government and its industry representatives have been faced with an inconsiderate and intransigent neighbor who has advised that it could care less of our interest and needs, or the fact that a valuable resource will waste because of its extremely short lifespan. The Mexican negotiations have merely pointed to hypothetical mathematical projections as justification for denying our fleets, many of which happen to be constituents of mine, access to traditional fishery grounds.

I have been told that the Mexican negotiators have ignored reasonable offers by U.S. negotiators. I understand they have cited our 200-mile economic zone provisions when it suited their cause, and ignored them when they tended to conflict with the Mexican interest.

Further, they have bluntly indicated a belief that the United States lacks the will and the backbone to enforce that law—as Senator CHILES stressed yesterday, the Mexican negotiators feel that we will be particularly hesitant in enforcing those provisions which require embargoing seafood products from countries which refuse to negotiate in good conscience to provide access to fishery surpluses.

Now, Mr. President, I do not think the Members of this body believe any such thing. This Senator certainly believes that the 200-mile economic zone provision, just like any other law, should be totally and fully enforced against all parties. It was intended as a comprehensive fisherman's protective act. As a cosponsor of the legislation, I certainly intended it as such. I agree with Senator CHILES that if it is not honored, if it is not fully enforced, it will be worthless and a fraud on the fishermen. Now that it is law, I will undertake every effort as chairman of the Finance Committee which has jurisdiction over trade legislation to see that it is fully implemented and stringently enforced—each and every aspect of it, may I emphasize.

Among other things, S. 3720 would provide for:

An annual quota on shrimp imports, on a country-by-country basis. Quota to equal the average of 1971, 1972, and 1973 imports from such country.

The annual quota would be further refined to prevent more than 10 percent of the annual quota in any 1 month.

Five and one-half percent duty to be utilized to improve and stabilize the market, establish research and consumer education programs. Additionally, establish funds—to be used to purchase shrimp or seafood surplus for school lunch programs—such as agricultural section 32 program whereby imports duties on foreign agricultural commodities are used to purchase domestic commodity surplus for the school lunch and food assistance programs.

The Secretary of Commerce could be authorized to adjust the quota levels annually or monthly as the market demand justified.

Mr. President, rather than discuss again the basic and compelling rationale which argues so strongly for this bill, I would like to comment further on one aspect of the subject discussed by Senator CHILES yesterday. That is the trade relationship which exists between this country and Mexico.

Frankly, I have long considered shameful the way we have refused to stand fast and to implement and effectively enforce our laws when dealing with foreign countries. We consistently impose unbelievable restrictions and regulations on our own citizenry and blast them into oblivion if they fail to heed each and every aspect of them.

But when we establish laws that have any impact on foreign nationals or country-to-country relationships, our State Department typically finds some way to back off and justify that country paying little or no attention to them. Further, we bend over backwards giving aid and comfort to every country in the world, some who merit it and some who do not, and when we ask what is only a reasonable recognition of well-established rights that we have long since deserved, which were developed and gained, they generally tell us they could care less. Typically we tuck our tails, come home and whimper.

The American people do not want us to act that way. I know for a fact they want us to stand and be counted like men. Two hundred years ago our forefathers fought and died to give us this country, we should not give it away—either in land or in rights, or in resources, or in access rights gained over the years.

The development and exploration costs which our fishing industry has expended to develop those fishing grounds has been tremendous. They have long fished those areas and have gained historical rights which must be recognized, especially those fishing grounds which are not overfished.

Many of these areas are not even fully fished. In fact, catch data indicates they have not come anywhere near the limits of their potential. In the case of shrimp, in particular, if they are not caught, they die and go to waste, and they certainly are not presently being caught by the Mexican fleet.

As I understand it, the Mexican fleet has no catch statistics to support that they are presently fully harvesting the shrimp, and their only argument is that mathematically they may be able to catch them if they move some more boats into the area.

I tell my colleagues that from my relationship with our great number of Louisiana fishermen there is a big difference between having a boat and a net, and catching shrimp, and if you do not believe it, I can show you a lot of "former fishermen" who can verify that taking a boat and a net out into the gulf does not guarantee you are going to come in with any shrimp.

Until the Mexicans can substantiate by catch statistics that they are, in fact catching the full quantity of shrimp that is available, and that no surplus exists, our people are entitled to go after that surplus of shrimp.

I for one am going to see that everything is done to insure that they have that right, and if that means the full implementation of an embargo measure, then so be it.

Yes, it is a matter of law, and that is why we put it into the law. Anyone who thinks we are not going to undertake to enforce every aspect of that law has another think coming, and he had better change his mind, quickly. I do not believe in passing laws if you are not going to implement them, and I do not believe in implementing them unless you are going to enforce them.

When you find someone who says he is not going to adhere to the law, you have to convince him. If we do not have backbone enough to do that, then we do not deserve to be in this Senate, and if any Mexican or Russian or any other foreign national thinks we're going to do otherwise, he has not talked to me lately. As far as this Senator is concerned, if we cannot go into that area after the shrimp that is available in surplus, then we do not need one shrimp in this country that comes out of that area. They can just keep it down there in Mexico and do anything they want to with it. One thing is for certain—I will not have the concern of going to the table in this country and eating a shrimp and wondering if it is coming from a country that is denying a livelihood to our Amer-

ican fishermen by allowing a surplus resource to die and waste away at sea.

FOOD PROSPECTS IN THE DEVELOPING WORLD

Mr. HUMPHREY. Mr. President, I wish to bring to your attention an August 3 article in the New York Times by Victor K. McElheny entitled "Doubling of Food Deficit of Tropical Nations Possible."

The article was based on a study by the Food Policy Research Institute, an organization formed after the World Food Conference of late 1974. The Institute estimated that, in contrast to the food deficit of 45 million tons of recent years in the food deficit countries, that level could rise to 95 to 108 million tons by 1985–86. I recall at the time of the World Food Conference that many experts had estimated that the food deficit could reach as high as 85 million tons.

The study of the Institute, under Dr. Dale E. Hathaway, formerly of Michigan State University and the Ford Foundation, pointed out that in the 15 years up to 1974, food production rose on an average of 2.5 percent per year, but in the last half of the period that rate had dropped to 1.7 percent.

If the more recent trends were to continue the food deficits could range as high as 200 million tons.

In this rather somber picture, one bright spot is the Asian wheat production, which has increased an average of 6.9 percent over a 15-year period ending in 1974, and these increases are based largely on the high-yielding wheat varieties developed at CIMMYT in Mexico under Dr. Norman Borlang.

The study did project that Pakistan, Brazil, and also the People's Republic of China could turn into food exporters by 1985–86.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOUBLING OF FOOD DEFICIT OF TROPICAL NATIONS POSSIBLE

(By Victor K. McElheny)

Food deficits in many poor tropical nations could be double those of the crisis year 1974–75 in less than a decade, according to a study by the International Food Policy Research Institute.

To overcome the expected shortages, the Washington-based institute estimates, nations with surpluses will be called on to make large increases in food aid, and deficit nations will be forced to attempt a doubling of their annual increases in food production, to four from roughly two percent.

In the 1974–75 span, food deficits in poor countries, largely in the tropics, totaled 45 million tons, the recently formed food policy institute said. In the 1985–86 period, depending on whether economic growth has been slow or fast, the deficits would be 95 to 108 million tons.

The report containing these forecasts was discussed at the annual meeting in Washington last week of the agencies that finance a group of international agricultural research centers. These aim to increase the yields of major food crops of the tropics. The meeting of the supporting agencies' Consultative Group on International Agricultural Research is known informally as "centers week."

Dr. Dale E. Hathaway, an economist formerly at Michigan State University and the Ford Foundation, heads the institute, which was formed in the aftermath of the World Food Conference in Rome late in 1974.

The institute's report said that the shortages it was forecasting could even be greater. In the 15 years ending in 1974, food production rose an average of 2.5 percent each year, but in the last half of the period—because of weather or other difficulties yet to be measured—the rate of increase dropped to an average of 1.7 percent.

The report called this drop in the rate of increased production "pervasive" among regions and major cereal grain crops. Thus, the report said, "it may well be difficult for developing, market-economy, food-deficit nations to maintain their longer-term production trends."

If the more recent trends prevailed, the food deficits of 1985–86 could add up to 200 million tons instead of 100 million, the report said.

The institute said this amount of food would be difficult to transport where it was needed, even if such surplus producers as the United States, Canada, South Africa, Australia and Argentina had enough to ship, and financing for all the needed food could be arranged.

The institute report said, "Such a large transfer of food, largely from developed countries, could well be unmanageable physically or financially."

The declining rate of increase in poor countries' food-grain production occurred in spite of widespread introduction of so-called "green revolution" varieties of wheat and rice, the report noted.

The only exception to this was the raising of wheat in Asia. Over the 15-year period ending in 1974, Asian wheat production increased an average of 6.9 per cent annually. In the last half of the period, starting in 1967, the rate jumped to 8.2 per cent.

It was in 1967 that large-scale growing of high-yielding wheat varieties, developed in Mexico, began in such regions as the Punjab in India and Pakistan.

Of the food deficits projected by the institute for 1985–86, about 40 per cent would fall in five areas; India, Bangladesh, Indonesia, Nigeria and a group of low-income nations south of the Sahara.

According to the institute, two food-importing market-economy nations of today, Brazil and Pakistan, could turn into exporters by 1985–86, and so could the People's Republic of China.

China, the institute suggested, might choose to use its surpluses to improve local diets or those of nearby Communist states rather than enter world export markets.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. CURTIS. Mr. President, I am not opposed to clean air. I think that the program implemented to date under the Clean Air Act has been most effective in cleaning up the Nation's air and in preventing air pollution. However, the Clean Air Act amendments which were passed by the Senate yesterday go far beyond what in my opinion is a reasonable and economically justifiable program for air pollution abatement.

Under the Clean Air Act, ambient air quality standards of two levels have been established to insure the health and welfare of the Nation. They are levels that have been deemed to be minimum air quality levels required to protect the health of human beings and welfare of animal and plant life around us. They include substantial margins of safety between actual levels of pollution that would endanger health and welfare, and the minimum pollution level standards. We are achieving the degree of health and welfare protection that has been our objective under the existing program.

But, the new standards which will call for a level of no significant deterioration to be added have ominous implications. Under this provision, the Environmental Protection Agency will proceed with plans to establish areas nationwide where no additional pollution of any significance will be permitted even though the areas may be virtually pollution free. Such areas will include much, if not all, of the Western States. Nebraska will be among those States.

The new standard will mean that no electric generating plant or other power production facility will be able to be built if it adds any pollution to the atmosphere; that no new manufacturing plant or industry will be allowed to be built if it cannot completely eliminate its discharges of pollutants into the air; that no new municipal solid waste or other waste treatment facility or utility will be permitted unless it is devoid of any air pollution.

I have heard many claims by proponents of this measure that it would not affect housing and normal business expansion and community growth. Yet, under the terms of the bill with its emphasis on the aspect of "significant deterioration," I fail to see where any area of growth or development would not have some effect on air quality by adding to air pollution. Just what amount of pollution will be considered "significant" we do not know.

Proponents of this new provision refused to consider the economic ramifications it would have in the floor debate. Their conclusion, from the remarks I heard and read, was that any price is worth paying to have completely pure areas maintained in the pristine and pollution-free West.

A major problem I have with that position relates to the fact that to date there has been no scientific development or technical achievement that can provide us with the devices necessary to keep our air absolutely pure. That leaves us without the ability to develop the critical energy production facilities that are needed to meet our future energy needs. And, as we may be able to develop such facilities the costs for our energy may quadruple in a short time because of the unreasonable expenses in cleaning up the

last one-tenth of 1 percent or so of air pollution.

While it is admirable that we strive for absolute pure air, I think it is unreasonable to demand that we take a stand at this time against any and all pollution when we do not have the technological improvements necessary to achieve the goal and still allow for normal economic growth. The obvious result of this position will be economic stagnation.

We should be concerned about the severe energy crisis and its effect on our economy. As we spend hundreds of millions of dollars to install unproven and poorly functioning air pollution devices, and as other electric generation facilities cannot be built to meet growing needs, our dependence on foreign energy sources will increase. We are already running a deficit balance of trade for foreign oil purchases in the tens of billions of dollars.

There are other side effects that will be as disastrous to our economy. Money that will be used for short-term air pollution solutions will take away from the hundreds of millions of dollars that are needed in other segments of the economy to provide housing, business operating loans, capital expansion and individual and business credit, all of which spur the economy. The shortage of capital and the slowdown of energy production will adversely affect our employment situation.

Mr. President, hopefully the House of Representatives will give greater consideration to the impact of the no significant deterioration provision as it considers this bill. I think the Senate has unwisely passed another bill on the basis of emotion rather than reason. I remind my colleagues of past ill-conceived legislation that has returned to haunt us in the Congress.

One such bill is the Occupational Safety and Health Act of 1970. At the time we considered that legislation, we were all taken up with a concern for the safety and health of the Nation's workers. What could be less controversial than a measure to insure safety and health in the work place? Few members of Congress found any fault in that legislation, but few Members thought to consider the cost and effect of the legislation on the Nation.

What it boils down to is a need to apply the time-proven test of cost effectiveness. I am not saying that a price should be put on the level of safety we should seek for human beings. What I am saying is that we too often fail to consider the overall impact of legislation, both on the economy and on the people directly.

In the case of OSHA, little attention was paid to the impact the act would have on small businesses. As I recall, OSHA was primarily intended to get at large industries that had poor or no work safety and health programs and standards. Yet the act turned out to be a nemesis for small business and agriculture. Because Congress ambiguous approach to OSHA failed to consider the overall impact of the legislation, we have had regulations of such detail that the act has plagued the small business community ever since.

With the implementation of OSHA, many small bsinesses have been forced to close. Employment has been adversely affected. Yet we spend millions of dollars on publications of pamphlets such as that warning farmers that "manure is slippery and could cause a fall."

OSHA is not the only example of Federal law and regulation that has adversely impacted on the economy and employment. The air pollution programs being carried out by the Environmental Protection Agency have led to forced closings of businesses and have resulted in unemployment of thousands of persons as reported by the Labor Department.

Mr. President, at a time when we have been wrestling with high unemployment in the United States, I am amazed that Congress could enact laws that seem bent on a nonemployment course. When we enact legislation that leads to a drain on available capital, that results in job losses, that forces small businesses out of existence, and that adds another bureaucracy on top of our already too large Federal payroll, are we truly acting in the interest of the Nation?

No. We are only increasing the unemployment rolls and the need for welfare while decreasing the tax revenues of business and individuals which are necessary to meet those growing welfare costs. Where will it end? Truly the American taxpayer is becoming an endangered species, and just as truly our American way of life is being endangered.

I sincerely hope that our colleagues in the House will give the issue of significant deterioration the consideration needed to evaluate its impact on the citizens and the economy. If they should fail to weigh the disastrous effects of this bad legislation, I will urge the President to veto the bill.

Mr. President, if significant deterioration is implemented, I suspect that those of us who will be here in the 95th Congress will again be wrestling with the issue as the States and communities across the nation begin to feel the impact of the program. It is inconceivable to me why we must establish programs only to have to spend our time and efforts to rectify our mistakes later, where in the first place we could have given careful consideration to all aspects of a bill and tailored it accordingly.

THE NATIONAL MEALS-ON-WHEELS ACT OF 1976

Mr. DOMENICI. Mr. President, I would like at this time to express my support for a measure of the most profound importance to millions of American citizens—the National Meals-on-Wheels Act of 1976.

The benefits of science have increased the life expectancy of Americans in general without, to any appreciable extent, diminishing the ravages of age. As a result, we have a vast and growing army of homebound elderly Americans denied association with the outside world, almost in the nature of persons imprisoned on a remote desert island. That is the giant social problem involved. But, there is also a giant economic problem.

A notable proposal to help solve this situation is S. 3685, a bill to amend the Older Americans Act of 1965 to provide a national meals-on-wheels program for the elderly. If enacted, this measure will rescue millions of our elderly from several enemies at once—malnutrition, poverty and loneliness.

The meals-on-wheels program will provide food and company to those unable, in consequence of infirmity and age, to seek it on their own, which expedites their institutionalization. Information gathered by the Senate Select Committee on Nutrition and Human Needs estimates indicate that as many as 3 to 4 million older persons—representing 1 out of 9 elderly—are unable to benefit from the regular meals-on-wheels program as offered by title VII of the Older Americans Act.

As matters stand today, under title VII, some 430,000 hot meals a day and various supportive services are available to persons able to attend a congregate setting. Unfortunately, this arrangement excludes the 3–4 million homebound elderly. Often the need for an adequate diet has forced many elderly into institutions or nursing homes—a most certain costly waste of dollars and human resources. Under the current congregate approach, feeding the estimated needy homebound would require a title VII program expansion in the area of 1,700 percent. Attempting to meet the need of the homebound elderly under the present design of title VII without a separate and additional commitment is impractical and highly unlikely.

I, therefore, wish to give my wholehearted support for S. 3685, the National Meals-on-Wheels Act of 1976, a community-oriented service project based upon the elements of kindness and concern that have rendered our country, not only the strongest in the history of man, but the best in every vital particular.

ACTIVITIES OF THE U.S. RAILWAY ASSOCIATION

Mr. STONE. Mr. President, I would like to commend Treasury Under Secretary Jerry Thomas, a fellow Floridian, for his effort on behalf of American taxpayers to scrutinize the activities of the U.S. Railway Association. The association is a public entity and is supported by taxpayer funds. Under Secretary Thomas, a member of the USRA board, requested an audit of the association's financial records when he heard allegations that high officials of the association were receiving special benefits at public expense. The Washington Star of