to use abundant low-rank coal through advanced clean coal technologies. As the ranking member of the subcommittee is aware, UNDEERC has worked closely with the expertise found at the Morgantown Energy Technology Center [METC].

Mr. BYRD. The Senator is correct; UNDEERC and METC have worked closely together in support of strategic fossil energy research objectives. The partnership at UNDEERC, which involves cooperators from the Federal Government, industry, and academia, serves as a model for jointly sponsored research programs. The non-Federal partners in this effort contribute significant cost-sharing to conduct the programs at UNDEERC.

Mr. CONRAD. Mr. President, let me add to what the Senator from West Virginia said. Of UNDEERC's funding for the jointly sponsored research program, 61 percent came from private sources in 1995. When individual businesses are willing to contribute real dollars to this effort, that demonstrates strong private sector support for the work of the center and its significantly enhances the Federal investment. Since UNDEERC was defederalized in 1983, the center has developed more than 400 private and public sector clients, some of whom have 20 or more individual contracts. In 1995 alone, UNDEERC developed 175 contracts with clients in 34 States and 8 foreign countries.

Mr. DORGAN. Mr. President, I would like to inquire of the chairman and ranking member of the subcommittee about the funding level for this program as recommended in the omnibus continuing resolution.

Mr. GORTON. I would respond to the Senator from North Dakota that the recommendations for the fossil energy appropriation account contained in this legislation assume a funding level of $5.1 million for the Cooperative Research and Development Program. While this is a decrease of $1.1 million from the funding level recommended in the Senate version of the fiscal year 1997 Interior bill, it is an increase of $1.1 million above the amount recommended for this program in the House-passed fiscal year 1997 Interior bill. While the Senate sought to protect the full amount recommended by the Appropriations Committee for this program, it was not possible to retain the total increase included in the Senate bill because of the change in the subcommittee's allocation for purposes of reaching closure on the fiscal year 1997 Interior bill.

Mr. BYRD. Mr. President, the chairman is absolutely correct. The net result of the Interior bill portion included in this continuing resolution is that the subcommittee's allocation was essentially cut in half from the amount of resources available when the bill was marked up in the Senate. Thus, a number of programs which were increased in the Senate bill were not able to sustain the full amount of the proposed increase in the final resolution. The chairman sought to protect as many of these increases as possible.

Mr. DORGAN. Senator CONRAD and I would ask of the chairman and ranking member if it would be possible to consider a reprogramming or supplemental request from the Department of Energy that would restore the final recommendation for the Cooperative Research and Development Program to the fiscal year 1996 level, which is the same amount as was included in the Senate bill?

Mr. GORTON. Mr. President, if the Department of Energy were to submit a reprogramming or supplemental request, the committee would give it every consideration as expeditiously as possible. Under the committee's reprogramming guidelines, the Department has the flexibility to move up to $500,000, or 10 percent, without prior approval of the Committee.

Mr. BYRD. I say to my good friends, the senators from North Dakota, that I will do everything I can to ensure that any effort to increase the funding for the fossil energy cooperative research and development program is considered promptly by the subcommittee. The chairman and I have an excellent relationship in reviewing matters under the jurisdiction of the subcommittee, and I am sure that he would seek to be helpful if at all possible. I would inquire of the chairman if he would agree that the Department of Energy should, at a minimum, review its unobligated balances now that fiscal year 1996 has drawn to a close, and see if there are any funds that could possibly be considered for a reprogramming without affecting adversely the conduct of other ongoing activities in the fossil energy appropriation account.

Mr. GORTON. Mr. President, the Senator from West Virginia makes an excellent suggestion. While I appreciate the desire of the Senators from North Dakota to see additional funding provided for this program, I am also sensitive to the many other competing demands within the Fossil Energy Program. Overall, this appropriations account is funded $52.3 million below last year's level, and some programs are being terminated or slowed down to comply with the subcommittee's constrained allocation.

Mr. DORGAN. Mr. President, I thank the chairman and ranking member. I look forward to working with them to see what actions might be possible to keep this exceptional Cooperative Research and Development Program at UNDEERC functioning without major disruptions.

Mr. CONRAD. I would also like to express my appreciation to the chairman and ranking member for working with us to see what can be done to secure full funding for this outstanding cooperative research program.

FLOWERING TREE

Mr. PRESSLER. Mr. President, as the Senate prepares to debate fiscal year 1997 funding levels for the Department of Health and Human Services [HHS], I would like to take a moment to discuss my concerns regarding a pending decision of the Department of Health and Human Services that would affect an important program in South Dakota. This decision deserves the Senate's attention.

The program affected is called Flowering Tree. It is a nationally recognized alcoholism treatment program that has been operating on the Pine Ridge Indian Reservation in my home State of South Dakota. This alcohol treatment program was backed by a 5-year Federal grant. It is only one of four substance abuse treatment programs nationally that allows Native American women to continue caring for their children while they receive treatment. The Flowering Tree program at Pine Ridge serves the second largest Indian reservation in the United States. On a reservation with 87 percent unemployment, widespread poverty and substance abuse, Flowering Tree has been a vital component of the Pine Ridge community.

In spite of Flowering Tree's success in combating generational alcohol abuse, it was brought to my attention that HHS intends to pull federal funding from Flowering Tree, which would force the program to close its doors. The program is funded through the Substance Abuse and Mental Health Services Administration [SAMHSA]. The loss of Federal support for the Flowering Tree program would be very harmful to those participating in it. Flowering Tree keeps families together and helps to build a better future for both mothers and their children by treating alcohol abuse. The program is working. If Flowering Tree is forced to close, many of the children assisted by the facility could lose their families and be referred for adoption, foster care or group homes. To say this would be unfortunate is a gross understatement. The breakup of families, combined with the loss of a program that offers a real way out of substance addiction, would be a devastating double-punch for the mothers currently participating or waiting to participate in the program.

I am troubled by the Department of Health and Human Services plan to terminate assistance to Flowering Tree. The pending decision apparently is based on anticipated fiscal year 1997 funding levels. The Senate soon will consider a bill that would significantly increase funding for substance abuse treatment programs. Flowering Tree's funding request for fiscal year 1997 is only $688,913. I have written a letter to the Secretary of Health and Human Services, Donna Shalala, urging her to reverse the Department's decision. Last week, I received an initial response from David Mactas, Director of the Center for Substance Abuse Treatment. Mr. Mactas explained the rationale for the Department's decision to terminate funding for Flowering Tree.

However, this week, my staff learned from staff at HHS that the decision to terminate funding was put on hold, pending the outcome of the bill that could fund this program.

Mr. President, I see on the floor my colleague from Pennsylvania, the distinguished Chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Senator SPECTER. I know my friend is working hard on the fiscal year 1997 spending bill that funds substance abuse programs. I hope my colleague had the opportunity to hear my earlier comments and I would yield to him for any comments he may wish to make.

Mr. SPECTER. I thank my friend, the Senator from South Dakota, for yielding. The Senator raises some understandable concerns regarding the future of the Flowering Tree Program on the Pine Ridge Indian Reservation. I agree with the statement of my colleague from South Dakota that the bill would provide sufficient funds for the Substance Abuse and Mental Health Services Administration's budget.

Mr. PRESSLER. Would the Senator from Pennsylvania agree the Appropriations Committee's proposed funding level should provide HHS with the funding necessary to continue supporting Flowering Tree?

Mr. SPECTER. Yes. I believe this funding level should be adequate to provide support for Flowering Tree's request for FY 1997. In fact, the Appropriations Committee has provided sufficient funds to continue all 13 residential women and children grants that were proposed to be discontinued by HHS at the end of the current fiscal year. The committee expects these projects to be fully funded in FY 1997. The Senator from South Dakota has made a very compelling case for Flowering Tree and I hope this information is helpful to my friend and colleague.

Mr. PRESSLER. I want to thank my dear friend and colleague from Pennsylvania for all his hard work and dedication on the Appropriations Committee. I appreciate very much the information he has provided. I also commend the Senator for his work to ensure adequate funding levels for substance abuse programs. I am pleased Congress intends to provide the funding necessary for Flowering Tree to continue fighting alcoholism and securing a brighter future for mothers and their children. Given this information, I hope Secretary Shalala and her department will do the right thing and continue to support the Flowering Tree program in Pine Ridge, SD.

JOBLINKS

Mr. DASCHLE. Mr. President, I understand that the omnibus appropriations bill includes report language instructing the Labor Department to follow the recommendations for demonstration projects contained in Senate Report No. 104–368. The Senate report instructs the Department of Labor to give full and fair consideration to the Joblinks Employment Transportation Center.

This Joblinks Center is an important initiative because it will help States to meet the work requirements of welfare reform by coordinating job referral and creation activities with available transportation resources. This will include development of a data base and technical materials, and onsite technical assistance. Second, the center will conduct demonstrations in 10 States—of which at least 4 are predominately rural—on coordination of transportation and job referral and creation programs. Third, to take advantage of the employment opportunities available in transportation, the Joblinks Center will create a training institute to train and certify skills in driving, dispatching, and operating transit systems. This make it possible for individuals to leave welfare and become employees in the Nation's transit industry or in a related field.

My colleague, Senator HARKIN, and I developed this initiative because, in many rural areas like in South Dakota and Iowa as well as in inner-city neighborhoods, unemployed and low-income people are stranded. Transportation is the vital link that connects people to jobs and can help them gain independence. Yet, in many communities, transportation assistance has not kept pace with shifting population patterns, changing communities and employment opportunities. In many instances, people simply cannot get to jobs.

Mr. HARKIN. Mr. President, the tough work requirements of the Personal Responsibility and Work Opportunity Reconciliation Act make it imperative that economically disadvantaged people have better access to employment opportunities. Among the improvements that must be made in easing the transition from welfare to work is in transportation. We must find ways to better coordinate our transportation systems with our efforts to train and employ individuals on public assistance.

As I travel around my State, the two largest barriers to work that I repeatedly hear about are child care and transportation. The Joblinks Center will help States and localities improve transportation systems for people who want to become and remain self-sufficient.

This is a very important initiative. We hope that the Labor Department will promptly get to work on funding this important activity. If people cannot get to jobs, they cannot work.

Mr. SPECTER. Mr. President, I thank the distinguished Democratic leader and my colleague, the ranking member of the Labor, HHS, and Education Appropriations Subcommittee, for bringing this initiative to the Appropriations Committee. I agree that we need to do more to assist low-income individuals to get to work. I think that this is an important project that may aid inner cities as well as rural areas, which are very important to me given the large number of rural areas in Pennsylvania. I agree with my colleagues that the Labor Department should give every consideration possible to this proposal.

Mr. DASCHLE. Mr. President, I thank the chairman, my colleague from Pennsylvania. I appreciate his efforts to work with us on this initiative. If welfare reform is truly to occur, then we need to enable more single parents to work. I know that's not easy, particularly for parents with young children. But, I believe that enhancing transportation assistance may be one key to enabling these parents to make it on their own.

CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME [CFIDS]

Mr. HARKINS. Would the distinguished senator from Pennsylvania engage in a colloquy to clarify certain congressional intent regarding chronic fatigue and immune dysfunction syndrome, also known as CFIDS?

Mr. SPECTER. Yes, I would.

Mr. HARKIN. The first matter pertains to a name change for the illness now referred to as chronic fatigue and immune dysfunction syndrome, [CFIDS], or chronic fatigue syndrome [CFS]. There is a consensus in the CFIDS community that the name chronic fatigue and immune dysfunction syndrome does not adequately describe the complex nature of the illness. Is it the committee's intent to agree with language contained in the House Labor, HHS report to the appropriations bill calling upon the Secretary of Health and Human Service to convene a committee for the purpose of examining this issue and to report back within 6 months of this bill's enactment with recommendations for a new scientific name or eponym that more appropriately describes the illness?

Mr. SPECTER. Yes, it is the intention of the committee to concur with the House report language concerning a name change.

Mr. HARKIN. Thank you, Mr. President. The Centers for Disease Control and Prevention recently convened a panel of experts on CFIDS for the purpose of reviewing CDC's current CFIDS program and the direction for future research. The review panel, made up of experts in infectious diseases, internal medicine and epidemiology, met over the course of 2 days and issued a report containing specific recommendations to the Director of the National Center for Infectious Diseases [NCID] and other Center staff. My understanding is that those recommendations have been well received by the NCID staff. Would the committee express its support for the review panel's recommendations, which include: First, establishment of a repository for brain tissue obtained from well-characterized CFS patients—upon death—for use in etiology studies; second, proceeding with planned etiology studies utilizing cutting-edge technology, including representational difference analysis [RDA]; and third, augmenting existing staff in the Division of Viral and Rickettsial Diseases with

an FTE with the demonstrated expertise in neuroendrocrinology and neuropsychology to guide case control studies of defects in the HPA axis?

Mr. SPECTER. The recent review by a panel of experts of the Centers for Disease Control's past work and future direction in CFIDS was a significant step forward in the Federal response to CFIDS. The committee applauds that initiative and urges the CDC to carry out the recommendations expeditiously.

Mr. HARKIN. Thank you, Mr. President, for your support of these important CFIDS provisions.

SECTION 2241 IN TITLE II

Mr. MACK. Mr. President, section 2241 in title II of H.R. 4278, the omnibus appropriations bill for fiscal year 1997 that is before us today, contains a technical drafting error that could have an unintended detrimental effect on foreign banks. Inadvertently, section 2241 as currently drafted may delete the Comptroller of Currency's current authority in 12 U.S.C. 72 to waive the citizenship requirements for directors of national banks if a bank is a foreign bank affiliate. Under current law that has been in effect since the International Banking Act of 1978 was enacted, the Comptroller has had the authority to waive the citizenship requirement for up to a minority of national bank directors if the bank is a subsidiary or affiliate of a foreign bank. Section 2241 could be read to inadvertently repeal that longstanding authority. Section 2241 was intended to expand the Comptroller's authority to waive requirements for national bank directors and was not intended to repeal existing authority to waive citizenship requirements. I hope legislation correcting this error will be introduced and passed in the next Congress but, in the mean time, the OCC should treat the citizenship waiver authority as continuing in effect and should not do anything that would require foreign bank subsidiaries or affiliates to restructure their boards.

Mr. D'AMATO. Mr. President, the Senator is absolutely correct. Section 2241 was not in anyway intended to repeal or change the Comptroller's existing authority to grant waivers to foreign bank affiliates under 12 U.S.C. 72. I join with my colleague in stating that it is the intent of this body that the OCC should treat any change to its current exemption authority as a drafting error and should not take any action to implement the change. I will work with my colleague in the 105th Congress to correct the drafting error made by section 2241.

Mr. GRAHAM. Mr. President, I too, would like to join with my colleagues in support of a technical amendment to section 2241 after we reconvene. I agree that any change that section 2241 would make to foreign bank operations in the United States is unintentional and is in error. I think that my colleagues are correct to instruct the OCC that this change is an error and should not be implemented.

Mr. D'AMATO. Mr. President, title II of the omnibus appropriations bill is comprised of several bills that the Senate Banking Committee considered and reported this Congress. Title II contains critical legislation to stabilize the deposit insurance funds, commonly referred to as BIF/SAIF. Title II also contains language based on our committee's lender liability, regulatory relief and fair credit reporting legislation.

Our actions today will ensure that the taxpayer will not pay one additional dollar for cleaning up the savings and loan crises. The package we are considering today represents a significant achievement. This time Congress will take the responsible action and resolve a pending problem before another S&L crisis erupts.

Mr. President, Congress needs to take action now to resolve the difficulties facing the Savings Association Insurance Fund [SAIF]. The thrift industry has recovered from the dire financial straits it faced in the late 1980's. However, the SAIF, which insures thrift deposits, is in extremely weak financial condition. Currently, the SAIF holds only half the capital it is required to hold under statute. The Bank Insurance Fund [BIF] was fully capitalized in 1995, permitting bank insurance premiums to drop to near zero. SAIF members continue to pay significantly higher rates which means that thrifts will continue to try and move deposits out of SAIF. The possible shrinkage of SAIF also raises the probability of a default on the $800 million in Financing Corporation [FICO] bond interest that thrifts now pay.

The BIF/SAIF proposal requires institutions with SAIF deposits to pay a one-time special assessment to full capitalize the SAIF. This special assessment will ensure that thrifts pay their fair share of the costs and will raise $4.1 billion in collections. Beginning January 1, 1997, all FDIC-insured institutions will pay the $800 million annual interest payments due on FICO bonds. Spreading the FICO burden will eliminate the incentive for SAIF deposits incentive to leave the fund. By removing the incentive to shift from SAIF to BIF, SAIF will be a more stable fund. Bank regulators will also have the authority to prevent SAIF deposits from being shifted in the BIF for purposes of evading SAIF assessments. However, Congress does not intend that regulators inappropriately use this authority to prevent institutions from accurately communicating with either existing or potential customers regarding the products and services offered by their institutions.

In the long term, the BIF/SAIF provisions would merge the BIF and the SAIF to protect the smaller, less diversified SAIF fund with the broader membership of the BIF. The merger will be dependent on subsequent Congressional action to address the complex issues surrounding the future of the thrift charter. I am hopeful that the next Congress will diligently work to resolve these issues.

Mr. President, by accepting these banking provisions, this Congress can also act to lower the cost of regulation to financial institutions and their consumers. The committee-reported regulatory relief provisions go a long way in relieving banks of some of the bureaucratic redtape that increases operating costs for banks and other lenders. Regulatory micromanagement is significant because higher costs for lenders drive up the price of financial products, and ultimately drive up the cost for consumers. The mountain of regulatory redtape that confronts banks is the cumulative result of years of legislation. Laws were passed to achieve any of a number of legitimate private policy concerns. Nevertheless, many of these laws are regulatory overkill. Many of the laws that are amended or repealed by this title do not help to accomplish an intended goal. Other provisions are being amended or repealed because they impose compliance costs that outweigh the discernible benefit. As a result, banks and other financial institutions are overburdened with regulatory mandates that bear no reasonable relationship to safety and soundness, consumer protection or protection of the deposit insurance funds.

Title II eliminates many arcane regulatory burdens that just don't make sense. For example, our language eliminates branch application requirements for ATM's. These applications are time consuming for banks to prepare and for the regulators to approve. Our language also eliminates the 90 day prior-notice requirement for moving a branch within the same neighborhood. Title II also removes the 7 percent growth cap on nonbank banks. These provisions will allow banks and other lenders to operate more efficiently and cheaply. They will help to defer the costs that banks will incur as part of the BIF/SAIF package.

Title II also contains fair credit reporting reform language. These provisions will ensure that mistakes in credit reports will be corrected quickly and properly. Consumer credit reports play an essential role in the consumer finance markets. These reports allow lenders to make informed credit-granting decisions quickly and cheaply. However, if credit reports are inaccurate, both the consumer and lender lose; the consumer loses an opportunity to obtain needed financing, and the lender loses potential business. The provisions of title II will help make sure that credit reports are accurate, and that any discovered inaccuracies are corrected as soon as practicable.

The provisions of title II will also promote greater privacy for the information in credit reports by assuring that credit report information is not distributed wily-nilly, but rather, only to persons with narrowly defined legitimate purposes for using the information. This law will provide significant new privacy protections for consumers.

While access to credit information is necessary for a number of legitimate business reasons, and credit reporting allows consumers to obtain prompt credit at low cost, the privacy of consumer credit information must be jealously guarded. Title II will help promote this important privacy goal.

Title II also includes the Asset Conservation, Lender Liability and Deposit Insurance Protection Act of 1996. This legislation is based on S. 394, a bill that I introduced at the beginning of this Congress. The lender liability provisions contained in title II represent the results of extensive negotiations among the administration, the lending industry and the interested committees of both Houses. These environmental liability provisions will ensure greater access to credit for small business and for environmental cleanup efforts; they will help fuel economic growth without endangering the environment. It is a clear demonstration of what can be accomplished, on a bipartisan basis, when the administration and the Congress work together to craft commonsense solutions to real problems. I would particularly like to thank Senators CHAFEE and SMITH, the chairman of the Environment Committee and its Superfund Subcommittee, respectively, for their cooperation and assistance with this legislation—they were both instrumental in resolving this major public policy issue.

The environmental title clarifies the liability of both secured parties and fiduciaries under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or Superfund. Court decisions have eviscerated the so-called secured lender exemption contained in the original Superfund law and created uncertainty as to the liability of lenders for cleanup costs. As a result, lenders have been less willing to make loans to small businesses and farms in order to avoid the risk of unlimited liability under CERCLA. Lenders do not make loans to certain types of business because they fear potential liability for environmental damage if they try to protect themselves against default through the foreclosure process. Court decisions also have raised the prospect of fiduciaries being held personally liable for environmental problems on properties held in trust, even when the fiduciary did not create, or contribute to, the problem. Title II clarifies and confirms the original secured creditor exemption. For lenders and fiduciaries, this bill does not remove liability; it simply establishes bright lines tests for liability. These tests should promote greater understanding among all lenders of the ''do's and don'ts'' of environmental liability. As a result of this greater understanding, lenders should become constructively involved in environmental cleanups.

This legislation provides the certainty needed by all parties—lenders, fiduciaries, guarantors, insurers, university foundations, pension administrators as well as a host of borrowers. Federal agencies such as the FDIC also stand in the position of lenders as well as receivers of property and will benefit from the certainty provided by this legislation. For the most part, this legislation codifies the terms of rules of the Environmental Protection Agency on Superfund and on the Solid Waste Disposal Act's underground storage tank provisions.

Some sections of the bill merit particular attention.

The new section 101(20)(G)(iv) defines the term ''lender'' by providing examples of institutions or activities that qualify an institution as a lender. This laundry list is joined together by the word and between items (VII) and (VIII). Readers of this provision should not be misled or interpret the use of and as establishing an 8-step test—a person may qualify as a lender if it meets any of the requirements provided in (G) (I) through (VII), not all of these requirements. This is just common sense; otherwise, it would be impossible for any institution to qualify as a lender. For instance, none of the Government-sponsored enterprises described in subparagraph (VI), can also qualify as an insured depository institution under subparagraph (I) or as an insured credit union under subparagraph (II)—it just is not possible under current Federal banking law. These provisions should be read as separate tests for qualifying as a lender, and this drafting error should be addressed as soon as possible.

This legislation includes a new CERCLA section 107(n)(3). This new section is intended to make clear that the standard for liability under CERCLA for fiduciaries for their negligent acts is the common-law standard for negligence when acting in a fiduciary capacity. The new section 107(n)(4) clarifies that if a fiduciary stays within the specified safe harbors, the fiduciary will not face personal liability; rather, the underlying trust or estate would be liable under the general CERCLA liability rules contained in section 107(a).

The definition of fiduciaries, in the new section 107(n)(5) which refers to indenture agreements, participations in debt securities and like activities, is intended to describe the kinds of activities contemplated by the Trust Indenture Act. Trust indentures facilitate corporate borrowings and are similar to mortgages because they provide security for repayment of investors. The trustee protects the interest of security holders who have purchased bonds issued by an obligor developing a project. As with other trustees, indentured trustees face less choice than lenders on whether or not to take possession of the property, as such duties may be required in connection with fulfilling the trustee's fiduciary obligations to the security holders. Because such trust indentures do not arise under the same common law rules as traditional trusts, the language in the new section 107(n)(5)(A)(X) of CERCLA simply assures that these trusts receive the same guidance as provided for other types of trusts.

The language in the new section 107(n)(8)(B) of CERCLA (regarding claims against nonemployee agents or independent contractors retained by fiduciaries) refers to such parties engaged in property management or hazardous waste disposal and does not infer that actions should be available against lawyers, accountants and other parties who are retained by a fiduciary but without responsibility for decisionmaking on hazardous materials.

The language referring to a lender as one who holds indicia of ownership should not be interpreted to mean that a lender who gives up indicia of ownership, either by transferring a security interest to a third party or by relinquishing the interest, loses the protection of the exemption. Under section 101(20)(F)(ii), if a security holder gives up their interest and is subsequently joined as a party in a suit, the former security interest holder will enjoy the same protection enjoyed while holding the security interest.

New section 101(20)(G)(I) is intended to clarify that the defined term extension of credit includes the making or renewal of any loan, the granting of a line of credit or extending credit in any manner, such as an advance by means of an overdraft or the issuance of a standby letter of credit, in addition to the two specifically listed types of lease financing transactions.

This legislation makes the same lender and fiduciary provisions that apply under Superfund law applicable to the Solid Waste Disposal Act, and the underground storage tank provisions of that act. The Environmental Protection Agency should move expeditiously to provide guidance consistent with the statutory language for fiduciaries, who are not currently addressed in section 9003(h)(9) or in the current EPA underground storage tank rule.

It is my hope that this legislation will encourage environmental cleanups by the private sector, and help to put farm land and urban properties back to full use. Lenders will have clear guidance as to the potential environmental liability they face, and, hopefully, small businesses will be able to obtain credit more easily. Fiduciaries receiving property will be able to operate with greater certainty in undertaking their duties.

Mr. President, I want to thank all of my colleagues on the Senate Banking Committee for their hard work on the legislation incorporated in title II. This title contains a significant portion of the committee's agenda for this year. The committee has worked diligently to consider and pass a challenging legislative agenda this Congress. This agenda included Securities litigation reform, BIF/SAIF legislation, Regulatory relief, Fair Credit Reporting Reform, Environmental Lender Liability and Securities Regulatory Reform.

The Committee has worked effectively, on a bipartisan basis, and I commend the entire membership of the committee. I would like to thank the ranking member, Senator SARBANES for his cooperation. I would also like to thank Senators SHELBY and MACK for their stewardship of regulatory reform, and Senators BOND and BRYAN for their leadership on Fair Credit.

Mr. President, I urge my colleagues to support these banking measures which will strengthen our Nation's financial system and protect our taxpayers.

REGULATORY ACCOUNTING

Mr. ROTH. Mr. President, I support the regulatory accounting provision that Senator STEVENS added as section 645 of the Treasury-Postal Appropriations bill, H.R. 3756. I am pleased that this provision was added to the omnibus appropriations bill. This provision requires the Office of Management and Budget to provide Congress with a report including estimates of the total annual costs and benefits of Federal regulatory programs; impacts of Federal rules on the private sector, State and local government, and the Federal Government; a more detailed analysis of the costs and benefits of rules costing $100 million or more, and recommendations to make regulatory programs more cost-effective. I am pleased that this amendment employs the term ''rule'' which is defined in section 551 of title V, United States Code. This will insure that this report is, indeed, a comprehensive analysis of the costs and benefits of regulation in the broadest sense, including legislative rules, interpretative rules, guidance documents, and the like. In addition, under the amendment, OMB must provide the public notice and an opportunity to comment on the draft report—its substance, methodologies, and recommendations. In the final report, OMB must summarize the public comments.

I share Senator STEVENS' view that the public has the right to know the costs and benefits of Federal regulatory programs. Congress also must have this information to improve agency performance. The total annual cost of Federal regulatory programs is estimated at $677 billion this year. These costs are passed on to the public, and the tab exceeds $6000 for the average American household. While we have made progress in our struggle to balance the budget for tax-and-spend programs, we are just breaking ground for imposing accountability on the regulatory process. It is long overdue. That is why I sponsored regulatory reform legislation that included regulatory accounting last year.

The regulatory accounting report should be a useful tool for Congress. Subsection 645(a)(1) requires OMB to estimate the total annual costs and benefits of Federal regulatory programs. A report from the U.S. Business Administration, ''The Changing Burden of Regulation,'' estimates that these costs will be about $688 billion next year. Those total annual costs (and the benefits) encompass impacts felt both from upcoming rules, as well as older rules that will continue to impose costs and benefits this coming fiscal year. OMB should quantify costs and benefits to the extent feasible, and provide the most plausible estimate. Benefits (and costs) that cannot be quantified should be described in qualitative terms.

To generate this information, OMB should draw upon the wealth of studies and reports already done, including the work of Tom Hopkins and Bob Hahn Where there are gaps, OMB must supplement existing information. To conserve its resources, OMB should issue guidelines to the agencies to gather the needed information, as OMB does for the fiscal budget process. Where detailed information on the costs and benefits of individual programs can be produced, it should be presented to Congress. The public comment period should help OMB generate information and make most plausible estimates of costs and benefits.

By September 1997, OMB must provide Congress with a credible and reliable accounting statement on the regulatory process. This report should demonstrate the costs and benefits of various regulatory programs. It should highlight those programs or program elements that are inefficient, and it should provide recommendations to reform them.

In conclusion, I would like to point out that this effort to enact a regulatory accounting requirement is not a partisan one. Originally, the provision was part of S. 291, a comprehensive regulatory reform bill that was reported out of the Governmental Affairs Committee last year when I was chairman by a unanimous 15-to-0 vote. This effort is, not withstanding repeated misstatements, not designed to roll back progress achieved through regulation but is rather intended to assess where we are and allow us to achieve more good for society at less cost. It is time we found out how efficiently we are achieving our legislative goals through regulation.

MARK VAN DE WATER

Mr. HOLLINGS. Mr. President, as we debate this omnibus appropriations bill, I want to acknowledge the staff that have worked so hard drafting these appropriations bills. They have been working night and day on this compromise bill. In particular, I would like to note Senator HATFIELD's deputy staff director for the Appropriations Committee, Mark Van de Water.

Many pundits said that this omnibus fiscal year 1997 bill was not possible. They said that the Federal Government would have to operate on a 6-month continuing resolution that uses spending formulas. But, behind the scenes, Senator HATFIELD and his staff worked long and hard to develop a basis for compromise. And, for the last few weeks, we all worked around the clock to conclude the negotiations that made this bill possible. The success of this process and the reality of this bill are due, in no small part, to the efforts of our Appropriations Committee's deputy staff director, Mark Van de Water.

Mark is a graduate of St. Lawrence University in New York where he studied political science and economics. He has worked on the Hill since 1986. From 1991 through 1994, he served on the committee staff as the minority clerk for the District of Columbia appropriations bill. I came to know him as the man who handled Senator HATFIELD's interests in our Commerce, Justice and State appropriations bill. Specifically, he ensured that Oregon's interests were protected in such diverse areas as salmon restoration, NOAA's oceanic research, and Federal law enforcement. In January 1995, Mark became our committee's deputy staff director and J. Keith Kennedy's right hand man.

Since January 1995, we have been able to count on Mark as a force of moderation and decency on the Committee. He continued to operate in his straight-forward, bipartisan fashion even in the winter and spring of 1995, when our Appropriations Committee did not. In September 1995, he worked with my staff to develop compromises and a Hatfield/Hollings amendment that allowed the Commerce, Justice, and State bill to move forward and kept the bill from being recommitted to the Committee. Mark continued to watch out for programs that were of special interest to Chairman HATFIELD, like aid to the poor through the Legal Services Corporation and research of the Pacific Ocean through the National Oceanic and Atmospheric Administration.

Too often we overlook the career professionals who make this institution and this appropriations process work. In Mark Van de Water this institution is lucky to have an individual who carries out his job with the same professionalism and conscientiousness that typifies our chairman, MARK O. HATFIELD. I, for one, would like to acknowledge and thank him for his contributions to the Appropriations Committee and the Senate.

SECTION 318—LOG EXPORTS

Mr. CRAIG. Mr. President, I would like to speak briefly about a provision of this bill which is very troublesome to me. I am talking about Section 318 of this bill which deals with Forest Service administration of log exports.

I view it as unfortunate and unfair to my constituents that the prohibitions in Section 318 appear once again in bill language, as they do in the current year appropriations bill. I did not object to the provision the first time, but its re-appearance in the fiscal year 1997 bill does raise serious concerns. I know the chairman is aware of these concerns.

Section 318 is the cause of a great deal of controversy within the forest products industry because it prevents

implementation of the Forest Resources Conservation and Shortage Relief Act of 1990.

Under the law, a review of sourcing areas relative to the export of logs is required after individual sourcing areas have been in place for 5 years. Sourcing areas are geographically defined areas within which companies which export their own private logs are permitted to also purchase Federal timber. Sourcing areas are required to be ''economically and geographically separated'' from those areas which produce export logs. The purpose is to prevent so-called ''substitution''—the illegal replacement of exported private logs with logs from Federal lands.

The Forest Service had begun the 5-year review, but the prohibition in the 1996 Interior and Related Agencies Appropriation bill stopped it cold. Section 318 delays it further, at least through fiscal year 1997.

Mr. President, it is my impression is that there is a fairly broad belief in the industry that the current sourcing area boundaries are illogical in many respects. Neither can they be properly monitored to prevent substitution. Sharply reduced Federal timber supply has dramatically changed historic market patterns and log flow. Companies desperate for logs to keep their mills operating are buying logs in distant locations and hauling them hundreds and hundreds of miles.

It may well be the case that sourcing areas are already obsolete. Under the circumstances of today's log market, it is difficult to imagine how log export zones can be kept ''economically and geographically separated,'' to quote the law, from sourcing areas.

One way to find out is to permit the Forest Service to reopen public comment and proceed with a review of sourcing areas as the law requires. That is what should happen. However, it will not, because of Section 318.

So, I intend to take some jurisdiction on this issue in the Energy and Natural Resources Committee and open the record myself through hearings and testimony in the next Congress. The current state of affairs begs for change, and those changes must not be indefinitely delayed.

I regret that I differ with my colleague from Washington, Senator GORTON, on this matter. But I know I can count on him to cooperate in reaching an equitable solution. He has already indicated he wishes to accomplish the same.

This concludes my remarks regarding Section 318.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1995

Ms. MOSELEY-BRAUN. The Age Discrimination in Employment Amendments of 1995 goes to the heart of the safety and security of the citizens of the United States. Each of us relies on the police officers and fire fighters in our community to protect our families, and to keep us safe.

This provision allows State and local public safety agencies to set mandatory retirement and maximum hiring ages for their police and fire fighters—the same authority the Federal Government already has with respect to Federal police officers and firefighters.

If police officers and firefighters cannot adequately perform their duties, people die and people get hurt—and the officers themselves are endangered. As one fire fighter put it,

''Firefighters and police officers must work as a team. We depend on the other members of our crew to have the strength and savvy to save our life if the need arises. If we are unable to do our job, people die.''

This provision provides a necessary, narrow and appropriate exemption from the Age Discrimination in Employment Act for State and local public safety officers—necessary and appropriate because numerous medical studies have found that age directly affects an individual's ability to perform the duties of a public safety officer.

Reflexes, sight and other physical capabilities decline with age, while the risk of sudden incapacitation—heart attacks and strokes for example—increases six-fold between ages 40 and 60. Although firefighters over 50 comprise only one-seventh of the total number of firefighters, they account for one-third of all firefighter deaths.

The Age Discrimination in Employment Amendments of 1995 gives State and local governments the same right to set mandatory retirement ages for their police and firefighters as the Federal Government.

I want to emphasize this point. We in Congress already made the decision to allow mandatory retirement ages for Federal public safety officers. This amendment simply extends that same right to State and local governments.

And, this provision merely allows State and local governments to set mandatory retirement and maximum hiring ages if they so choose—it is not a mandate.

The Federal Government has deemed mandatory retirement ages necessary to provide for the safety and security of the Federal firefighters and police officers and the citizens they protect—State and local governments should be able to make that same decision.

The Federal police officers, agents, and firefighters covered by mandatory retirement ages, include: the U.S. Park Police; the Federal Bureau of Investigation; the Department of Justice law enforcement personnel; the District of Columbia firefighters; the U.S. Forest Service firefighters; the Central Intelligence Agency; and Federal firefighters.

The Capitol Police—the men and women who protect the Members of Congress—have a mandatory retirement age.

All too often in the past, Congress has treated itself differently than other Americans. With the passage of the Congressional Accountability Act, this Congress made it clear that it is committed to ending disparate treatment. Every Senator who voted for the Congressional Accountability Act should vote for this bill.

The Federal Aviation Administration recently extended it's mandatory retirement age of 60 to all pilots that fly 10 or more passengers to increase safety on commuter planes.

These pilots take twice yearly physicals, they have a copilot at their side ready to take the controls if anything happens, and still they must retire at age 60. After age 60, the risk of incapacitation becomes too great—too many lives are at risk in the air. These same lives are at risk on the ground if our police and firefighters are unable to do their job—and all too often, our police and firefighters don't have a copilot waiting to assist in an arrest or a burning building.

As a general rule, the Age Discrimination Act prohibits employers from discriminating against workers solely on the basis of age, and generally prohibits the use of mandatory retirement and minimum hiring ages.

Police officers and firefighters and all public employees were exempt from the Age Discrimination in Employment Act until a 1983 court ruling placed public employees under the act. State and local governments were then required to either prove in court that mandatory retirement and minimum hiring ages for police and firefighters were bona fide occupational qualifications [BFOQ's] reasonably necessary for the normal operation of the business or else eliminate them.

Although this approach sounds reasonable, courts in some jurisdictions ruled limits permissible, while identical limits were held impermissible in other jurisdictions. For example, the Missouri Highway Patrol's minimum hiring age of 32 was upheld while Los Angeles County sheriff's minimum hiring age of 35 was not. East Providence's mandatory retirement age of 60 for police officers was upheld while Pennsylvania's mandatory retirement age of 60 was struck down.

As a result, no State or local government could be sure of the legality of its hiring or retirement policies. They could, However, be sure of having to spend scarce financial resources to defend their policies, regardless of the outcome of their suits.

A suggested alternative to mandatory retirement ages is testing that screens out those individuals who may still retain their strength at the age of 60 or 70. The 1986 Amendment to the Age Discrimination Act authorized State and local governments to set minimum hiring ages and mandatory retirement ages until December 31, 1993. It also ordered the EEOC and the Department of Labor to conduct a study to determine: whether physical and mental fitness tests can accurately assess the ability of police and fire fighters to perform the requirements of their jobs; which particular types of