I join her children, her 7 grandchildren, her great grandchild and her many friends in wishing Anna Trebil a very happy 100th birthday.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, February 26, 1998, the Federal debt stood at $5,525,033,799,622.62 (Five trillion, five hundred twenty-five billion, thirty-three million, seven hundred ninety-nine thousand, six hundred twenty-two dollars and sixty-two cents).

One year ago, February 26, 1997, the Federal debt stood at $5,345,590,000,000 (Five trillion, three hundred forty-five billion, five hundred ninety million).

Five years ago, February 26, 1993, the Federal debt stood at $4,197,003,000,000 (Four trillion, one hundred ninety-seven billion, three million).

Ten years ago, February 26, 1988, the Federal debt stood at $2,473,373,000,000 (Two trillion, four hundred seventy-three billion, three hundred seventy-three million).

Twenty-five years ago, February 26, 1973, the Federal debt stood at $453,599,000,000 (Four hundred fifty-three billion, five hundred ninety-nine million) which reflects a debt increase of more than $5 trillion—$5,071,404,799,622.62 (Five trillion, seventy-one billion, four hundred four million, seven hundred ninety-nine thousand, six hundred twenty-two dollars and sixty-two cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 12:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 493. An act to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

MEASURES REFERRED

The following bill was referred to the Committee on Rules and Administration on February 26, 1998, following the adoption of the motion to proceed to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes:

S. 1663. A bill to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON:

S. 1691. A bill to provide for Indian legal reform, and for other purposes; to the Committee on Indian Affairs.

By Mr. NICKLES (for himself, Mr. BAUCUS, Mrs. HUTCHISON, and Mr. MURKOWSKI):

S. 1692. A bill to amend the Internal Revenue Code of 1986 to provide software trade secrets protection; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ABRAHAM):

S. 1693. A bill to renew, reform, reinvigorate, and protect the National Park System; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. KENNEDY, Mr. TORRICELLI, Mr. HOLLINGS, Mr. ROBB, Mr. SANTORUM, Mr. KYL, Mr. AKAKA, Mr. LIEBERMAN, Mr. ALLARD, Mr. COCHRAN, Mr. GRAHAM, Mr. GRASSLEY, Mr. WYDEN, Mr. FAIRCLOTH, Mrs. MURRAY, Mr. KOHL, Mr. MACK, Ms. MIKULSKI, Mr. CRAIG, Mr. BURNS, Mr. BROWNBACK, Mr. DODD, Mr. DORGAN, Mr. ROCKEFELLER, Mr. SMITH of Oregon, Mr. HATCH, Mr. LAUTENBERG, Mr. REID, Mr. COVERDELL, Mr. ENZI, Mr. GRAMM, Mr. KEMPTHORNE, Mr. HELMS, Mr. BAUCUS, Ms. COLLINS, and Mr. COATS):

S. Res. 186. A resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON:

S. 1691. A bill to provide for Indian legal reform, and for other purposes; to the Committee on Indian Affairs.

AMERICAN INDIAN EQUAL JUSTICE ACT

Mr. GORTON. Mr. President, I introduce the American Indian Equal Justice Act and ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''American Indian Equal Justice Act''.

(b) FINDINGS.—Congress finds that—

(1) a universal principle of simple justice and accountable government requires that all persons be afforded legal remedies for violations of their legal rights;

(2) the fifth amendment of the Constitution builds upon that principle by guaranteeing that ''. . . no person shall be deprived of life, liberty, or property without due process of law'';

(3) sovereign immunity, a legal doctrine that has its origins in feudal England when it was policy that the ''King could do no wrong'', affronts that principle and is incompatible with the rule of law in democratic society;

(4) for more than a century, the Government of the United States and the States have dramatically scaled back the doctrine of sovereign immunity without impairing their dignity, sovereignty, or ability to conduct valid government policies;

(5) the only remaining governments in the United States that maintain and assert the full scope of immunity from lawsuits are Indian tribal governments;

(6) according to the 1990 decennial census conducted by the Bureau of the Census, nearly half of the individuals residing on Indian reservations are non-Indian;

(7) for the non-Indian individuals referred to in paragraph (6) and the thousands of people of the United States, Indian and non-Indian, who interact with tribal governments everyday, the rights to due process and legal remedy are constantly at risk because of tribal immunity;

(8) by providing a complete shield from legal claims, the doctrine of sovereign immunity frustrates justice and provokes social tensions and turmoil inimical to social peace;

(9) the Supreme Court has affirmed that Congress has clear and undoubted constitutional authority to define, limit, or waive the immunity of Indian tribes; and

(10) it is necessary to address the issue referred to in paragraph (9) in order to—

(A) secure the rights provided under the Constitution for all persons; and

(B) uphold the principle that no government should be above the law.

(c) PURPOSE.—The purpose of this Act is to assist in ensuring due process and legal rights throughout the United States and to strengthen the rule of law by making Indian tribal governments subject to judicial review with respect to certain civil matters.

SEC. 2. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior.

(2) TRIBAL IMMUNITY.—The term ''tribal immunity'' means the immunity of an Indian tribe from jurisdiction of the courts, judicial review of an action of that Indian tribe, and other remedies.

SEC. 3. COLLECTION OF STATE TAXES.

Section 1362 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''The district courts'';

(2) by inserting ''(referred to in this section as an 'Indian tribe')'' after ''Interior''; and

(3) by adding at the end the following:

''(b)(1) An Indian tribe, tribal corporation, or member of an Indian tribe, shall collect, and remit to a State, any excise, use, or sales tax imposed by the State on nonmembers of the Indian tribe as a consequence of the purchase of goods or services by the nonmember from the Indian tribe, tribal corporation, or member.

''(2) A State may bring an action in a district court of the United States to enforce the requirements under paragraph (1).

''(3) To the extent necessary to enforce this subsection with respect to an Indian tribe, tribal corporation, or member of an Indian tribe, the tribal immunity of that Indian tribe, tribal corporation, or member is waived.''.

SEC. 4. INDIAN TRIBES AS DEFENDANTS.

(a) PROVISIONS TO PARALLEL THE PROVISIONS THAT ARE POPULARLY KNOWN AS THE TUCKER ACT.—Section 1362 of title 28, United States Code, as amended by section 3, is further amended by adding at the end the following:

''(c)(1) The district courts of the United States shall have original jurisdiction in any

civil action or claim against an Indian tribe, with respect to which the matter in controversy arises under the Constitution, laws, or treaties of the United States.

''(2) The district courts shall have jurisdiction of any civil action or claim against an Indian tribe for liquidated or unliquidated damages for cases not sounding in tort that involve any contract made by the governing body of the Indian tribe or on behalf of an Indian tribe.

''(d) Subject to the provisions of chapter 171A, the district courts shall have jurisdiction of civil actions in claims against an Indian tribe for money damages, accruing on or after the date of enactment of the American Indian Equal Justice Act for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of an Indian tribe under circumstances in which the Indian tribe, if a private individual or corporation would be liable to the claimant in accordance with the law of the State where the act or omission occurred.

''(e) To the extent necessary to enforce this section, the tribal immunity (as that term is defined in section 2 of the American Indian Equal Justice Act) of the Indian tribe (as that term is defined in such section 2) involved is waived.''.

SEC. 5. TORT CLAIMS PROCEDURE.

(a) IN GENERAL.—Part 6 of title 28, United States Code, is amended by inserting after chapter 171 the following:

''CHAPTER 171A—INDIAN TORT CLAIMS PROCEDURE

''§ 2691. Definitions

''In this chapter:

''(1)(A) Subject to subparagraph (B), the term 'employee of an Indian tribe' includes—

''(i) an officer or employee of an Indian tribe; and

''(ii) any person acting on behalf of an Indian tribe in an official capacity, temporarily or permanently, whether with or without compensation (other than an employee of the Federal Government or the government of a State or political subdivision thereof who is acting within the scope of the employment of that individual).

''(B) The term includes an individual who is employed by an Indian tribe to carry out a self-determination contract (as that term is defined in section 4(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(j))).

''(2) The term 'Indian tribe' means any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior.

''§ 2692. Liability of Indian tribes

''(a) An Indian tribe shall be liable, relating to tort claims, in the same manner and to the same extent, as a private individual or corporation under like circumstances, but shall not be liable for interest before judgment or for punitive damages.

''(b) In any case described in subsection (a) in which a death was caused and the law of the State where the act or omission complained of occurred provides for punitive damages, the Indian tribe shall, in lieu of being liable for punitive damages, be liable for actual or compensatory damages resulting from that death to each person on behalf of whom action was brought.

''§ 2693. Compromise

''The governing body of an Indian tribe or a designee of that governing body may arbitrate, compromise, or settle any claim cognizable under section 1362(d).

''§ 2694. Exceptions; waiver

''(a) The provisions of this chapter and section 1362(d) shall not apply to any case relating to a controversy relating to membership in an Indian tribe.

''(b) With respect to an Indian tribe, to the extent necessary to carry out this chapter, the tribal immunity (as that term is defined in section 2 of the American Indian Equal Justice Act) of that Indian tribe is waived.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 28, United States Code, is amended by inserting after the item relating to chapter 171 the following:

''171A. Indian Tort Claims Procedure 2691''.

SEC. 6. INDIAN TRIBES AS DEFENDANTS IN STATE COURTS.

(a) CONSENT TO SUIT IN STATE COURT.—Consent is hereby given to institute a civil cause of action against an Indian tribe in a court of general jurisdiction of the State, on a claim arising within the State, including a claim arising on an Indian reservation or Indian country, in any case in which the cause of action—

(1) arises under Federal law or the law of a State; and

(2) relates to—

(A) tort claims; or

(B) claims for cases not sounding in tort that involve any contract made by the governing body of an Indian tribe or on behalf of an Indian tribe.

(b) TORT CLAIMS.—In any action brought in a State court for a tort claim against an Indian tribe, that Indian tribe shall be liable to the same extent as a private individual or corporation under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

(c) FEDERAL CONSENT.—Notwithstanding the provisions of the Act of August 15, 1953 (67 Stat 588 et seq., chapter 505), section 1360 of title 28, United States Code, and sections 401 through 404 of the Civil Rights Act of 1968 (25 U.S.C. 1321 through 1324) and section 406 of such Act (25 U.S.C. 1326) that require the consent of an Indian tribe for a State to assume jurisdiction over matters of civil law, this section constitutes full and complete consent by the United States for a State court to exercise jurisdiction over any claim referred to in subsection (a).

(d) REMOVAL.—An action brought under this section—

(1) shall not be removable under section 1441 of title 28, United States Code; and

(2) shall be considered to meet the requirements for an exception under section 1441(a) of title 28, United States Code.

SEC. 7. INDIAN CIVIL RIGHTS.

Title II of the Civil Rights Act of 1968 (commonly known as the ''Indian Civil Rights Act'') (25 U.S.C. 1301 et seq.) is amended by adding at the end the following:

''SEC. 204. ENFORCEMENT.

''The district courts of the United States shall have jurisdiction in any civil rights action alleging a failure to comply with rights secured by the requirements under this title. With respect to an Indian tribe, to the extent necessary to enforce this title, the tribal immunity of that Indian tribe (as that term is defined in section 2 of the American Indian Equal Justice Act) is waived.''.

SEC. 8. APPLICABILITY.

This Act and the amendments made under this Act shall apply to cases commenced against an Indian tribe on or after the date of enactment of this Act.

By Mr. NICKLES (for himself, Mr. BAUCUS, Mrs. HUTCHISON, and Mr. MURKOWSKI):

S. 1692. A bill to amend the Internal Revenue Code of 1986 to provide software trade secrets protection; to the Committee on Finance.

SOFTWARE TRADE SECRETS PROTECTION ACT

Mr. NICKLES. Mr. President, recent Congressional oversight of the Internal Revenue Service has revealed an agency which has virtually limitless power to enforce the tax code. One aspect of this power is the ability of the IRS to use its summons authority to force taxpayers to turn over books, papers, records, or other data in the course of an audit.

Recently, the IRS has started to use its administrative summons power to gain access to the source code for computer software products. Source code for software is a human-readable form of computer language written by software programmers, and it contains all the ''tricks of the trade'' which a programmer uses to ultimately make the software product do its job. After a programmer writes the source code, it is ''compiled'' into machine-readable form called executable code or object code. If the software is being sold or otherwise distributed to customers, the executable code is copied onto diskettes or CD–ROM's for the customers' use.

The IRS has used its summons power to obtain computer software source code in several different audit situations. The IRS has sought the source code for the software used to produce the tax return from the vendor of the software.

The IRS has sought the source code for a software product in connection with a Section 482 transfer pricing audit with respect to a license for the software product to a foreign subsidiary, and the IRS has summoned the source code for software developed by a computer service company in the course of an audit of the firm's research and experimentation credit. The IRS has summoned the executable code of taxpayer's tax preparation software in order to run ''what-if'' scenarios based on the taxpayer's records during an audit.

The primary problem with complying with these summons is that, in each instance the IRS would need to hire an outside consultant in order to make any meaningful use of the source code. Such outside consultants likely would be competitors or potential competitors of the software company. A skilled computer programmer can discern the software company's trade secrets from an examination of the source code, whereas trade secrets cannot readily be discerned from an examination of the executable code.

Further, problems can also arise when the IRS issues a summons to a computer software company in connection with an audit of one of their customers. This requires the software publisher to look through its own, not the taxpayer's, voluminous records for the relevant versions of the programs in

question. This can place an undue burden on the software publisher by requiring their key technical personnel to be diverted from their regular work to help with the tax audit of a customer.

Finally, if the IRS is allowed to use a taxpayer's tax preparation software and records to run ''what-if'' scenarios during an audit, the taxpayer will be forced to justify a tax return they did not file.

In several of these situations, Mr. President, the owner of the computer software source code has objected to the summons in order to protect their trade secrets. Unfortunately, because the IRS summons authority is so broad, the courts have been constrained to side with the IRS in most cases, leaving computer software companies with inadequate protection for their trade secrets.

Perhaps a better way to explain the issue, Mr. President, is with the following analogy. Imagine that during an audit of the Coca-Cola Company, the IRS issues a summons for the secret recipe for Coke. Even though the IRS can see the Coke, taste it, and read the ingredients on the side of the can, they still insist on examining the secret recipe. Now, imagine further than the IRS admits that since they employ no one with expertise in this area, they will have to contract with experts from Pepsi to examine Coke's secret recipe. This is the dilemma facing the computer software industry.

For these reasons, Mr. President, I am introducing the Software Trade Secrets Protection Act. This legislation is similar to a bill introduced in the House of Representatives by Congressman SAM JOHNSON, and the section 344 of H.R. 2676, the House-passed IRS reform bill.

The Software Trade Secrets Protection Act provides a general prohibition on the IRS using summons authority to obtain computer software source code. The bill then sets out three exceptions to the general prohibition: (1) cases where the Secretary can demonstrate need, (2) criminal investigations, and (3) internally developed software where competitive issues are not implicated.

In the first exception, the Secretary has the burden of showing that the need for the source code outweighs the burdens placed on the summoned person and the danger that its trade secrets might be exposed. The bill further provides a series of protections for both source code and executable code if it is eventually examined by the IRS, including provisions intended to prevent the IRS from using a taxpayer's software and data to run ''what-if'' scenarios during an audit.

Mr. President, the U.S. software industry leads the world in the development of innovative products and cutting-edge technology. They are one of the fastest growing and most competitive industries in the nation, and their products are unique and ofttimes require special consideration. I believe Congressional hearings have shown what the IRS can and will do if its power is unrestrained. The Software Trade Secrets Protection Act creates good, common-sense restrictions on that power.

I look forward to working with my colleagues on the Senate Finance Committee to include this legislation in IRS reform legislation this year.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Software Trade Secrets Protection Act''.

SEC. 2. SOFTWARE TRADE SECRETS PROTECTION.

(a) IN GENERAL.—Subchapter A of chapter 78 of the Internal Revenue Code of 1986 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following:

''SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

''(a) LIMITATION ON AUTHORITY TO REQUIRE PRODUCTION OF COMPUTER SOFTWARE SOURCE CODE.—

''(1) IN GENERAL.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or examine any computer software source code or related customer communications, and training materials.

''(2) EXCEPTION WHERE INFORMATION NOT OTHERWISE AVAILABLE TO VERIFY CORRECTNESS OF ITEM ON RETURN.—Paragraph (1) shall not apply to any portion, item, or component of computer software source code if—

''(A) the Secretary, without examining the computer software source code, is unable to otherwise ascertain with reasonable accuracy the correctness of any item on a return after employing auditing procedures and practices otherwise used pursuant to this title,

''(B) the Secretary identifies with reasonable specificity the portion, item, or component of such code needed to verify the correctness of such item on the return, and

''(C) the Secretary demonstrates that with respect to the issue under examination the need for the portion, item, or component of the computer software source code requested outweighs the burdens of production imposed on the summoned person and the risks of disclosure of trade secrets.

''(3) OTHER EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws, and

''(B) any computer software developed by the taxpayer or a related person (within the meaning of section 267 or 707(b)) for internal use by the taxpayer or such person and not for commercial purposes.

''(4) ENFORCEMENT PROCEEDING.—In any proceeding brought under section 7604 to enforce a summons issued under this section, the court shall hold a hearing to determine whether the Secretary has met the requirements of paragraph (2).

''(5) COMPLIANCE WITH SUMMONS FOR COMPUTER SOFTWARE SOURCE CODE.—Any person to whom a summons for a portion, item, or component of computer software source code is issued shall be deemed to have complied with such summons by producing a hard-copy printout of such code.

''(b) PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

''(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent undue burdens or the disclosure of trade secrets or other confidential information with respect to such software, including providing that any information be placed under seal to be opened only as directed by the court.

''(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

''(A) the software may be examined only in connection with the examination of such taxpayer's return,

''(B) the software may be disclosed only to persons conducting such examination whose duties or responsibilities require access to the software,

''(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code and related documents, shall not be removed from the owner's place of business,

''(D) the software may not be copied except as necessary to perform such examination,

''(E) at the end of the examination (and any judicial review of the summons issued under this section), the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted and any notes or other memoranda made with regard to such software shall be destroyed,

''(F) the software may not be decompiled, disassembled, or reverse engineered, and

''(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement between the Secretary and any person who will examine or otherwise have access to such software, in which such person agrees—

''(i) not to disclose such software to any person other than authorized employees or agents of the Secretary during and after employment by the Secretary, and

''(ii) not to compete with the owner of the software for a period of 2 years after disclosure to such person of such software.

''The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

''(c) COMPLIANCE WITH SUMMONS FOR CERTAIN COMPUTER SOFTWARE EXECUTABLE CODE.—Any taxpayer to whom is issued a summons for commercially available computer software executable code used to prepare such taxpayer's return or to account for the taxpayer's transactions with others shall be deemed to have complied with such summons by producing a read-only version of such code.

''(d) DEFINITIONS.—For purposes of this section—

''(1) SOFTWARE.—The term 'software' includes computer software source code and computer software executable code.

''(2) COMPUTER SOFTWARE SOURCE CODE.—The term 'computer software source code' means—

''(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons, is not machine readable, and is not capable of directly being used to give instructions to a computer, and

''(B) related programmers' notes, design documents, memoranda, and similar documentation, excluding customer communications and training materials.

''(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term 'computer software executable code' means—

''(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions, and

''(B) any related user manuals.''.

(b) UNAUTHORIZED DISCLOSURE OF SOFTWARE.—Section 7213 of the Internal Revenue Code of 1986 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) DISCLOSURE OF SOFTWARE.—Any person who divulges or makes known in any manner whatever not provided under section 7612 to any other person software (as defined in section 7612(d)(1)) shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7612 and by inserting the following:

''Sec. 7612. Special procedures for summonses for computer software.

''Sec. 7613. Cross references.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SOFTWARE TRADE SECRETS PROTECTION ACT—SECTION-BY-SECTION ANALYSIS

1. FACTUAL SCENARIOS

Recently, the Internal Revenue Service has started to use its administrative summons power to gain access to the source code for computer software products. The use of the summons power to compel production of computer software source code has come up in three situations. First, in connection with the audit of certain taxpayers under the Coordinated Examination Program, the IRS has sought the source code for the software used to produce the tax return from the vendor of the software. In other cases, IRS has sought the source code for a software production in connection with a Section 482 transfer pricing audit. In the third class of cases, IRS has summoned the source code for software developed by a computer service company in the course of an audit of the firm's research and experimentation credit. In each instance, the IRS has signaled its intention to hire outside consultants in order to make any meaningful use of the source code. Such outside consultants likely would be competitors or potential competitors of the software company.

The source code for computer software is the human readable form prepared by software programmers. After the source code is prepared, it is then ''compiled'' into machine-readable form called executable code or object code. The executable code is then copied onto diskettes or CD–ROM's for distribution to customers. A skilled computer programmer can discern the software company's trade secrets from an examination of the source code. Trade secrets cannot readily be discerned from an examination of the executable code.

The ease of misappropriating software trade secrets and capitalizing on such secrets is unparalleled, especially given advances in computer and communications technology.

Computer software products undergo nearly continuous change. Many times, it is not possible to match a particular version of a product in the hands of a customer with a discrete source code version. Software companies continually revise their products and issue new versions. Within a particular version, companies frequently issue updates and corrections after a product is released. These interim changes must first be made to the source code before the machine-readable versions are released. Software companies make such bug-fixes and patches available to their customers, but typically the vendor does not know whether the customer has installed them or not.

Summonses issued to third-party record keepers typically require the recordkeeper to identify and turn over to the IRS documents regarding the taxpayer's financial transactions. By contrast, a summons for source code could require a software publisher to look through its own, not the taxpayer's, voluminous records for the relevant versions of the programs in question. Further, this would require programmers to divert attention from programming to search for the summoned code. Merely complying with a summons for source code could cause competitive damage to a software company because key technical personnel will be diverted to help with the tax audit of a customer. This could be especially damaging to small or medium-sized companies.

2. TRADE SECRET LAW

The law of trade secrets provides an effective and efficient method to protect commercially sensitive and important business information. For many companies the law of trade secrets is the method of choice for protecting valuable business information. Trade secret law arises from state law. Unlike patent, copyright and trademark law there is no federal scheme for trade secret protection. The law of trade secrets, depending upon the state, derives either from the common law or the Uniform Trade Secrets Act. A slight majority of states use the uniform act. The common law, as set forth in the Restatement of Torts, Sec. 757, defines a trade secret as follows:

''A trade secret may consist of a formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know it or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a patter for a machine or other device, or a list of customers.''

The Supreme Court has relied upon this definition to require that for information to constitute a trade secret, it must (1) be used in one's business, (2) provide a competitive advantage, and (3) be secret.

Under the Uniform Trade Secrets Act (Sec. 1(4)), a trade secret is defined as follows:

''trade secret means information, including a formula, pattern, compilation, device method, technique, or process that:

''(1) derives independent economic value, actual or potential, from not being generally known to, and not readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

''(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.''

The cornerstone of both definitions, whether common law or statutory, is that the information must be kept secret. The standard for secrecy for a trade secret comprises a two-pronged test: (1) whether the information alleged to be a trade secret is generally known or available, and (2) whether the trade secret owner takes affirmative steps to safeguard the confidentiality of the information.

Trade secret owners may protect information from unauthorized disclosures by entering into contracts with those to whom the confidential information is disclosed. Such contracts typically take two forms. First, a trade secret owner may require such a person to enter into a ''nondisclosure agreement'' under which the individual promises not to disclose or use trade secret information without first obtaining the permission of the owner.

The second type of contract is a post-employment ''non-competition agreement.'' Under this type of contract, an employee or outside consultant agrees not to compete with the present employer or client or become employed by a competitor of the employer or client after termination of the current relationship.

Both types of agreements are widely used in the software industry to protect trade secrets that might exist in software source code.

3. IRC SECTION 6103

Internal Revenue Code Section 6103 generally prohibits Internal Revenue Service employees from disclosing tax returns and ''tax return information.'' the United States and its agents can be held liable for improper disclosures of tax returns and tax return information. See I.R.C. Sec. 7431. However, Section 6103 does not protect software source code regardless of whether it is owned by the taxpayer or a third-party software vendor. Section 6103 expressly excludes from the definition of ''return information'' ''data which is in a form which cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.'' Generally speaking, source code would not identify, either directly or indirectly, the taxpayer and thus would not qualify as ''return information.''

In addition, were computer source code to be treated as ''return information,'' Section 6103 contains numerous provisions that actually authorize disclosure of return information. Section 6103(n) permits disclosure of return information to IRS contractors working on programming IRS computers. Thus, defining computer source code as ''return information'' actually would expose it to disclosure to potential competitors of the software owner.

4. OVERVIEW OF THE BILL

The bill reflects the basic premise that the subject matter (computer software) is unique and justifies all relevant provisions being collected in one section. The House bill, on the other hand, attempts to address the problem by amending several code sections in patchwork fashion.

The general rule of the bill is a blanket prohibition on the IRS using the summons authority to obtain computer source code and related customer communications. It also prohibits a summons for training materials. It then sets out three significant exceptions to the prohibition: (1) cases where the Secretary can demonstrate need, (2) criminal investigations, and (3) cases involving internally developed software where competitive issues are not implicated.

Under the first exception, before a summons can be issued for source code, the Secretary has the burden of demonstrating that the need for the source code outweighs the burdens placed on the summoned person and the danger that its trade secrets might be exposed. The bill also sets out a series of protections for both source code and executable code in the hands of the IRS. These protections are in lieu of whatever protections might be afforded by Section 6103.

5. DETAILED ANALYSIS

Section (a)(1):

This section establishes the general rule that no summons may be issued, and no enforcement proceeding may be commenced, for computer software source code and related customer communications or training materials. This general rule with respect to source code is subject to three exceptions.

Section (a)(2):

The first exception is for cases where the Secretary can establish that he cannot perform an accurate audit without a review of computer software source code.

The provision for a needs-based test recognizes that questions may arise during an audit that can only be answered with reference to the source code. It is intended that such a summons might be issued only as a last resort and only after traditional audit techniques have been exhausted. In these circumstances, it is contemplated that the audit has become focused on a particular issue or set of issues. The Secretary may have had access to an executable version of the software loaded with the taxpayer's financial data. At some point in the audit, the Secretary and the taxpayer may have been unable to verify the correctness of the computation of an entry on the tax return under audit. Further, in such a case, it is contemplated that the Secretary will have asked the software publisher for assistance in resolving this issue but been unable to obtain a satisfactory answer. After the Secretary has sufficiently identified the specific item on the return for which source code is sought a summons can be issued only for that portion of the source code that relates to the specific entry on the tax return.

In deciding whether a summons has been properly issued, a balancing test is established in lieu of the current standard. Under current law, all that the Secretary needs to show is that the summoned material ''might shed some light'' on the accuracy of the tax return. See *United States v. Powell*, 379 U.S. 48 (1964). This standard was developed well before the computer revolution and the proliferation of software in the United States economy. It provides considerably less protection that the standard applied by most other federal agencies in similar cases. Despite having written administrative policies acknowledging the importance of protecting trade secrets, the Secretary has not, in practice, honored those policies by showing adequate sensitivity to the legitimate concerns of software publishers.

The bill replaces the *Powell* standard with a new balancing test. To meet the balancing test, the Secretary, and any court conducting a review, must determine whether the need for the source code outweighs the burden on the owner of the source code in complying with the summons and the danger that its trade secrets might be exposed to a competitor.

The initial threshold requires that the Secretary demonstrate some need for the portion of the source code that is sought. To meet this test, the Secretary must show that he is unable to verify the correctness of the item without a review of the source code. Ordinarily, the audit process focuses on the taxpayer's financial records to determine whether the tax return reflects a proper application of the internal revenue laws to the facts. Importantly, traditional computer audit techniques used to verify data in an efficient manner are a part of this process and are not effected by the bill. Such a process does not require the source code for the software that might have been used to prepare the return. However, in cases involving tax issues related to software products, it is anticipated that very little if any probative evidence could be gleaned from the source code.

In assessing the burdens imposed on the owner of software in complying with a summons issued under this section, it is anticipated that the Secretary, and the courts, will focus on a variety of issues. The chief factor to consider is the degree of business interruption that would be caused by compliance with the summons. Other factors to consider include: (1) whether the software was initially developed by the current owner of the software source code, (2) whether the source code was developed by former employees, (3) the degree to which the source code has changed since the software was first developed and (4) whether the software owner itself has put into issue the use or content of the source code.

The danger of trade of trade secret disclosure exists anytime non-employees of the trade secret owner are allowed access to confidential information. In weighting the risks of trade secret disclosure, a factor to consider is the ability to impose safeguards on such disclosure, including the statutory protections available under subsection (b) of this section.

Section (a)(3), Other Exceptions:

The general prohibition on issuing a summons or computer source code does not apply to a summons issued in furtherance of an inquiry into any criminal offense or with respect to software developed by the taxpayer for its own internal use and not for commercial purposes. The exception for internal use software is to be applied to situations where the taxpayer-developed software is used to process the taxpayer's own financial transactions, provide internal accounting functions, or to prepare such taxpayer's own tax return. It is not to be applied to situations where a taxpayer develops software that is used by it to provide a service to its unrelated customers.

Section (a)(4), Enforcement proceedings:

Currently, the Secretary and the Court handle summons enforcement proceedings in a summary fashion. Because the burden on the Secretary is so low, the Secretary merely files the affidavit of the Revenue Agent conducting the affidavit. This shifts the burden to the summoned person to show cause why the summons should not be enforced. This burden is a heavy one and the summoned person often is not allowed discovery for evidence that bears on such issues.

Any time the Secretary brings an action to enforce a summons issued under this section, the Court would be required to conduct a hearing to determine whether the Secretary has met the requirements of paragraph (2). The courts shall allow the summoned party to conduct discovery so that a proper defense can be presented. When a summons is issued under this section for source code in the hands of a third-party software publisher, the summoned person ordinarily will have no independent knowledge of the facts and issues surrounding the audit of the taxpayer. The Court can enter such protective orders that are necessary to prevent widespread disclosures of returns and return information.

Section (a)(5), Compliance with Summons for Source Code:

A person in receipt of a summons for computer software source code may comply with such a summons by producing a hard copy printout of the portion of the source code identified in the summons. If a person were required to produce a digital copy of source code, the danger of multiple copies being generated and transmitted outside the owner's premises is heightened.

Section (b), Other Protections:

(1) Court Ordered Protections: Under current law, there is a split among the courts of appeal over the authority of district courts to conditionally enforce IRS summonses. The Fifth Circuit and the Ninth Circuit hold that the court's authority is limited and may issue only two types of orders: (1) an order enforcing the summons in full, or (2) an order quashing the summons in full. In the Eighth Circuit, the courts have discretion to issue orders limiting the scope of the summons and can place restrictions on the Secretary's use of information obtained with a summons. With regard to summonses issued under this section, the district courts are given express statutory authority to issue such orders that are necessary or appropriate to prevent disclosures of trade secrets or other confidential information or to prevent undue hardship on the summoned person. With respect to summonses issued under this section, *United States* v. *Barrett*, 837 F.2d 1341 (5th Cir. 1988), is overruled. This provision has no effect on the authority of the district courts with regard to other types of summonses.

(2) Protection of Computer Software Code: The provisions of this subsection apply to both source code and executable code in the possession of the IRS, and apply whether or not an enforcement proceeding is commenced. The provisions of this section are in lieu of any protections that might be afforded or disclosures that might be permitted under Section 6103. These provisions are designed to: (1) limit the examination of computer software code by the Secretary, (2) limit the number of IRS employees who might be permitted access to such computer code, (3) ensure that no unauthorized copies are made, (4) require that all copies be returned or destroyed at the end of the audit, and (5) bind any person who might be exposed to such computer software code to the same or similar restrictions on disclosure and competition that might be imposed on its employees by the owner of such computer software code. With regard to computer source code, the bill permits the owner of such code to insist that it not be removed from its business premises. Because the software publisher will not be in direct privity of contract with the IRS employee or outside consultant who will have access to such code, the provision treats such owner as if it were a party to the agreement. Thus, the software publisher will have statutory standing to directly enforce the terms of such agreements to prevent disclosures or uses of trade secrets obtained in the course of an examination.

The list of protections in the bill is not intended to be exhaustive. The Secretary and the trade secret owner may agree to other protective measures in a particular case. For the avoidance of doubt, a district court in fashioning a protective order is not limited to the list of protective measures set forth in the statute.

Sec. (b), Compliance with Summons for Executable Code:

This section describes the circumstances under which a taxpayer will be deemed to have complied with a summons issued for certain computer software executable code. This section only applies to commercially available computer software executable code that is used by the taxpayer to produce the tax return under examination or accounting software that is used by the taxpayer to process transactional data. A taxpayer will be deemed to have satisfied a summons for such software upon production to the Secretary of a read-only version of such software or a run-time module containing data files produced by such software. The Secretary shall not be entitled to a fully executable version of such computer software executable code. However, the version of the computer software executable code provided by the taxpayer must allow the Secretary to

access such interim data files as might be produced by the fully executable software. Such data files must be in a fully readable mode.

Section (d), Definitions:

The term ''software'' is defined to include both computer software source code and computer software executable code. The general prohibition on issuance of a summons applies only to a summons for computer software source code. The additional protections apply to summons for software which will include both source code and executable code.

This section adopts the common definitions of source code and executable or ''object'' code.

''The source code for a computer program is the series of instructions to the computer for carrying out the various tasks that are performed by the program, expressed in a programming language which is easily comprehensible to appropriately trained human beings. The source code serves two functions. First, it can be treated as comparable to text material, and in that respect can be printed out, read and studied, and loaded into a computer's memory, in much the same way that documents are loaded into word processing equipment. Second, the source code can be used to cause the computer to execute the program. To accomplish this, the source code is ''compiled.'' This involves an automatic process performed by the computer under the control of a program called a ''compiler'' which translates the source code into ''object code'' which is very difficult to comprehend by human beings. The object code version of a program is then loaded into the computer's memory and causes the computer to carry out the program function.''—See, *SAS Institute, Inc.* v. *S & H Computer Systems, Inc.*, 605 F. Supp. 816, 818 (M.D. Tenn. 1985).

Machine language, on the other hand, which is most commonly referred to as executable code or ''object'' code, is the only language that a computer can actually understand. All computer programs must be converted into machine language if the computer is to be able to execute the instructions in the program. Machine language is usually a binary language using two sybols, 0 and 1, to indicate an open or closed switch. Theoretically, computer programs can be written by programmers in machine language, and at one point, they actually were. But it is extremely difficult for humans to think and write operational instructions in the form of binary code.

Section (b), Criminal Actions:

This section amends Section 7213 to provide that disclosures of the types of information dealt with under this section would be punishable in the same manner as disclosures of returns and return information.

Effective date:

The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. THOMAS (for himself and Mr. ABRAHAM):

S. 1693. A bill to renew, reform, reinvigorate, and protect the National Park System; to the Committee on Energy and Natural Resources.

VISION 2020 NATIONAL PARKS RESTORATION ACT

Mr. THOMAS. Mr. President, there are many issues in the Congress that divide us. We come from different areas. We come from different philosophies. Today I come to the floor with a bill that is an opportunity to come together collectively, introducing a bill on one of the uniquely American priorities that does, in fact, bind us together—our national parks.

If you have felt the Earth shake and experienced the thunder of Old Faithful in Yellowstone or contemplated the patriotic enigma at Gettysburg, you can well understand my passion for support of these areas so important to our national identity. The value of national parks is clearly one of the cultural constants for Americans. As the chairman of the Subcommittee on National Parks, I can tell you each and every Senator needs to look at the perilous state of the parks today and act with me in developing some long-term solutions.

The bill I introduce today, Vision 2020, the National Parks Restoration Act, is a result of a quite lengthy process of inquiry and of study. Over the last year, the subcommittee has had more than 15 park-related hearings. We have spoken to dozens of park experts—environmental groups and user groups. We have listened to the suggestions as well as the criticisms from our colleagues and have attracted activity in the House. Our purpose is and was to carefully review the state of national parks and to evaluate areas for improvement within the agencies.

We have found that there is a system of parks tremendously popular with the public but afflicted by problems that the public sometimes only vaguely recognizes. Let me share some of the findings. Our system of national parks stands at 376 units, including over 83 million acres of the most treasured landscapes and historical sites of our national possessions. The National Park Service is charged by law with a distinctly unique mission—to protect its natural and cultural resources unimpaired for the enjoyment of current and future generations. It is a charge and responsibility that is hard to handle in the best of times. In times of fiscal constraint, that mandate requires a broad range of innovative approaches to get that job done. Each year, over 250 million recreational users enjoy our parks. Our hearings revealed that each year 12 million visitors are from foreign lands, with their visitations contributing significantly, of course, to America's $22 billion international travel trade surplus. This explosive popularity directly stimulates over $10 billion in annual economies locally and supports 230,000 tourism-related jobs.

However, the parks face many problems. One of the most pressing problems facing the agency is the ''thinning of the blood,'' explained in one of our hearings by previous Park Service Director Jim Ridenour. At the same time, new parks have been added to the system without appropriations to care for them. The agency has been saddled with new responsibilities at the same time the resources have not been available for the parks already there. Collectively, the shortfall between where the Park Service is and where it should be in terms of maintenance, construction, staffing and resource protection is approximately $5 to $8 billion in arrears. Another problem is the wear and tear on roads, bridges, campgrounds and other facilities, leaving critics to observe that the parks have been ''loved to death.''

As visiting populations grow, facilities that were often built decades ago cannot stand the strain. It has become clear through our oversight process that park managers are hobbled in their ability to assess the inventory of natural and cultural resources, probably one of the primary functions of the park and the park management. The funding and cooperative cost sharing have simply not existed to catalog the resources that the parks must protect. At a time when we need the best from the Park Service managers, rangers, maintenance, scientific and administrative staff, we find there is less to offer them in terms of professional development.

Probably as serious as any of these conditions is the problem of the public apathy. Don't get me wrong, the Americans truly like their parks. They love their parks. But as of yet, that has not really translated into a definitive call for action from the Congress or the administration.

In my local park of Yellowstone, there has been some increase in appropriations each year, but the required changes in terms of retirement, in terms of staffing and in terms of inflation have been more than eaten up in the increase in the appropriations to where the expendable income has, in fact, gone down.

Probably as serious as any of these conditions, as I said, is public apathy. I can tell you, the day is coming when we will have increasing problems, and I hope that we will be ahead of that game. I propose we mobilize ourselves to address these problems before we are in a crisis and have to close parks and take more costly measures.

I continue to say if we are to have these resources in the future for our kids and our future generations, then we are going to have to do something soon, the sooner the better, in terms of coming to a solution. If we continue to do what we have been doing, we can't expect better results in the future.

So Vision 2020 provides a broad, systematic approach to addressing the needs of the National Park Service. The restoration bill takes a broad approach, with 11 titles covering key areas of concern. Vision 2020 will enhance resource protection by extending the fee base that goes directly to park programs. This will be accomplished by expanding, extending and dedicating to the park increased demonstration projects fees that were approved last year and that have been in effect 1 year. We want to put them in all the parks where it is practical and lawful to collect those fees. We now have them in about 100 parks out of 376 that can be expanded.

We need to harness the enthusiasm of voluntarism, and also philanthropic donations. Voluntarism is alive and well

in many parks. At Golden Gate Recreation Area, 8,400 residents of the Bay Area donate time each year to support the park in a variety of ways—volunteer time and philanthropic donations can be improved by orders of magnitude to add to the solvency and expertise and the work power of parks. We need to tap the power of individual donors for local causes.

At our hearing in Denver, I learned the charitable contributions are most successfully subscribed from individual donors on a local basis, those that visit or those that live, or those who are familiar with the park that is closest to them, where they can help monitor the direct results. As a result, we also ask the National Park Foundation to develop a formal program of orientation, strengthening, guidance, and ongoing assistance for park locales interested in developing friends and groups that are interested in supporting their local park. There are many in almost every park. We were in Gettysburg last week. Gettysburg has several groups supportive of their own park.

We need to find ways to enhance the contribution of concessionaires. Park funding levels will be directly enhanced by asking the concessionaire to help to shoulder a more realistic portion of the park's expenses through a fee structure that closely tracks their earnings in particular parks. At present, fee schedules vary widely. Face it, people do travel in parks. They do require lodging, meals and facilities. Remember the purpose of the park? To preserve the resource and provide a pleasant and quality visit. That is what these concessions do. Many concessionaires operate in an almost noncompetitive market where the business is virtually assured. We are striving for a fee system that maximizes revenues for these businesses privileged to operate in parks—of course, recognizing the need for them to make a profit in order to be there.

We need to improve park concession management performance. In fairness to concessionaires and park visitors who rely on their services, a dramatic change is proposed in the way concessions are managed by the Park Service in this legislation. We think the parks should utilize more of the private sector expertise in these activities that are totally commercial in nature and we would utilize a private industry asset manager to support many aspects of developing, bidding, developing prospectus and rewarding management of commercial contracts. An advisory board, made up of the agency and industry experts, would guide the director. This would be a board of three agency people, three private sector people, chaired by the Secretary of the Interior, controlled, obviously, by the agencies, to ensure that whatever is done in the commercial sector does not, in fact, damage the resource protection purpose of the park.

In addition to that, we are going to ask that our Hollywood friends share some in the cost of maintaining parks. Hollywood will be asked to do their part through a provision that ties filming fees to a small percentage of the commercial production costs. You would be surprised how many movies are made in parks. We think that is fine, but there ought to be some contribution. We are not asking much from Hollywood, but the American public expects some return for the use of those public facilities.

We are developing a Passport to Adventure to garner members. A park ''passport system'' would be created featuring annually issued collectible stamps similar to the successful duck stamp series, raising revenues which would encourage people to contribute something to their park; or perhaps a tax refund contribution. We thought we would make it easy for people to make a contribution, a unique opportunity for American taxpayers who want to not only talk the talk but will, as a result, have an option of dedicating part of their tax refund to the National Park Resource Protection programs by simply checking it off on their tax form.

Promoting agency professionalism. One title of the bill concentrates on the strategy for developing more expertise among National Park Service employees. By the way, let me say that my experience personally with parks over the last year or two leads me to believe or feel that there is a great deal of loyalty among park agency employees. I don't know of an agency in the Federal Government where people are more committed or more loyal to what they do than the employees of the Park Service. Of course, to be able to do that, they do need the additional ability to have training as well as defining a system of recruitment. Future park superintendents and senior managers need to have an opportunity to become as professional as possible.

We are interested in making sure that science is there as a foundation for the management of these resources. Vision 2020 directs support for the science necessary to guide that important work by making some shifts in the program.

The Park Police are important. I guess I didn't realize myself until recently what a significant contribution the Park Police make, particularly here in Washington where there are over 400 Park Police to take care of the parkways, the parks, the rivers, and all of the things here, as well as in New York City. This aspect of the Park Service has often been overlooked. We are asking that there be some studies to assure that they have the resources to do the kinds of things that they are obliged to do.

Finally, we are going to talk about an innovative area of park resources. Almost all of the large parks have the same kinds of things that small towns have. They have sewers, streets, buildings, all of which are very difficult to maintain on an annual budget. So we are going to seek to put into play, at least as a demonstration program, a bonding program where large parks like Yosemite could have an opportunity to issue bonds of $10 million—and, in fact, that will be the limit for any park—to do some kind of facility restructuring that can't come out of annual budgets, direct a stream of repayment revenue from the demonstration project so that maybe over 5 or 10 years those bonds would be retired—similar to what almost every government agency does in the whole world when they have facilities to build.

This won't be easy. It is not customary for the Federal Government to have bonding programs. It's also, frankly, sometimes uncustomary for the Government to do anything they haven't been doing for a hundred years. So there will be some difficulty in causing that to happen. But we think it's important, and we think it will be useful.

Basically, what we are seeking to do, Mr. President, is to recognize how important parks are, to recognize the difficulty parks have had, and are continuing to have, in maintaining those resources, to deal with some opportunities to supplement the taxpayers' appropriation support for parks by having some outside methods of raising funds that can be used in the parks.

With those additional funds will go some requirements for additional and strengthened management, so that there is accountability for how those dollars are spent. There will be a vision plan over a period of time for the agency, with vision plans coming from each park, with measurable results in the plan. The GAO, the Government auditing office, says often we have plans and we even have appropriations where the plan is not implemented and we want to cause that to happen. And then, in addition to that, of course, we want to help strengthen the management through professionalism and do some things, such as bonding.

So, in conclusion, I want to ask you to consider for a moment an America without national parks. How would we feel without Yosemite, Independence Hall, or Grand Canyon protected for public enjoyment? How much of our national identity is reflected in these icons—the Statue of Liberty, Yellowstone, the National Capital Mall, or Old Faithful? How much of the rugged, adventurous American spirit is still revisited by hiking the back country of Glacier or mountaineering in Alaska's Denali? What would America be without protecting habitat for bison, moose, and bighorn sheep? These are the kinds of things we have available. These are the kinds of things that challenge us to protect.

As Americans, what would we leave our children and grandchildren if not these wild and historic places to reflect, recreate and pause for some spiritual renewal? It seems to me that we all have an obligation to a measure of national service directed at strengthening our proud system of parks—the

first such system in the world—the system that over 100 other nations have modeled after around the world.

So I am asking for the support of my colleagues for Vision 2020—not only your vote, but also your review and constructive commentary. We worked very hard to put together the bill. We don't suggest that it is perfect. We will have hearings, and there will be an opportunity to evaluate how we achieve success. That is the key. These words are not unchangeable, but the goal is to preserve the parks.

I believe that together we can accomplish constructive changes. We have an opportunity to bring the National Park Service and our national parks into the 21st century, alive, vibrant, effective and efficient. I think the public expects us to seize upon that opportunity so that our parks will be healthy and available for them to enjoy for a very long time in the future.

So, Mr. President, I will submit this bill. First of all, I will add Senator SPENCER ABRAHAM as an original sponsor. I submit the bill for introduction.

ADDITIONAL COSPONSORS

S. 467

At the request of Mr. WELLSTONE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 467, a bill to prevent discrimination against victims of abuse in all lines of insurance.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts (Mr. KERRY) was withdrawn as a cosponsor of S. 1422, supra.

S. 1605

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1605, A bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1677

At the request of Mr. CHAFEE, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

SENATE JOINT RESOLUTION 41

At the request of Mr. SARBANES, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of Senate Joint Resolution 41, A joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of Senate Resolution 155, A resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 186—CONCERNING ISRAELI MEMBERSHIP IN A UNITED NATIONS REGIONAL GROUP

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 186

Whereas, of the 185 member states of the United Nations, only the State of Israel is ineligible to sit on the Security Council, the Economic and Social Council, or any other United Nations committee;

Whereas the State of Israel was created in response to a 1947 General Assembly resolution and joined the United Nations in 1949;

Whereas the members of the United Nations have organized themselves according to regional groups since 1946;

Whereas eligibility for election to the rotating seats of the Security Council, or other United Nations councils, commissions, or committees, is only available to countries belonging to a regional group;

Whereas Israel has remained a member of the United Nations despite being subjected to deliberate attacks which aimed to place the legitimacy of the State of Israel in question;

Whereas this anachronistic Cold War isolation of Israel at the United Nations continues;

Whereas barring a member of the United Nations from entering a regional group is inimical to the principles under which the United Nations was founded, namely, ''to develop friendly relations among nations based on respect for the principle of equal rights . . .''; and

Whereas Israel is a vibrant democracy, which shares the values, goals, and interests of the ''Western European and Others Group'', a regional group which includes Australia, Canada, New Zealand, and the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it should be the policy of the United States to support the State of Israel's efforts to enter an appropriate United Nations regional group;

(2) the President should instruct the Permanent Representative of the United States to the United Nations to carry out this policy;

(3) the United States should—

(A) insist that any efforts to reform the United Nations, including the Security Council, also resolve this anomaly; and

(B) ensure that the principle of sovereign equality be upheld without exception; and

(4) the Secretary of State should submit a report to Congress on the steps taken by the United States, the Secretary General of the United Nations, and others to help secure Israel's membership in an appropriate United Nations regional group.

Mr. MOYNIHAN. Mr. President, today I am pleased to submit a resolution seeking to right a 50 year wrong. I am joined by the distinguished senior Senator from Indiana, Senator LUGAR, and 37 of my colleagues. Having served as our Ambassador to the United Nations, I am painfully aware of the paradox facing Israel at the United Nations. Israel is a state which was created by the United Nations, and yet for 50 years has been treated as a step-child—or worse—in its dealings at the United Nations.

Never was that more apparent than the sad period when the General Assembly equated Zionism with racism. It took a long 16 years to repeal, but after great effort it was done. Today, I hope we can begin a similar effort to end a Cold War anomaly. I speak of the fact that Israel is excluded from a United Nations regional group. Israel is the only one of the 185 member states of the United Nations barred from membership in a regional group. The United Nations member states have organized themselves by regional groups since before Israel joined the United Nations in 1949. Membership in a United Nations regional group confers eligibility to sit on the Security Council, the Economic and Social Council, as well as other United Nations councils, commissions, and committees.

This effort could mirror that of the effort to repeal the odious General Assembly Resolution 3379, equating Zionism with racism. That effort was led by Chaim Herzog. He came to Washington in 1987 for the first state visit by a President of Israel to the United States in history.

I took the floor of the Senate to introduce a Joint Resolution following word-for-word an Australian measure calling for the repeal of Resolution 3379.

The Senate and the House of Representatives adopted the resolution unanimously, in time for Chaim Herzog to address a Joint Meeting of Congress on November 10, 1987—on the 12th anniversary of his defense of Israel at the United Nations in opposition to Resolution 3379. President Reagan signed the resolution on November 17. Finally, there was an American policy. We meant to repeal General Assembly Resolution 3379.

Both the Zionism resolution and the rejectionist Arab Front would soon lose their major support with the collapse of the Soviet Union. The General Assembly overwhelmingly repealed Resolution 3379 on December 16, 1991. The fight had taken 16 years.

We won that battle but one cold war anachronism remains at the United Nations. One sorry throwback to an era when the institutionalized isolation of Israel was a given in international affairs—the ugly ''gentlemen's agreement'' that excludes Israel and only