''Whereas, in 1980, the late Commerce Secretary Brown became the chief counsel to the U.S. Senate Committee on the Judiciary; and

''Whereas, in 1981, the late Commerce Secretary Brown became a partner in the Washington, D.C. law firm of Patton, Boggs and Blow; and

''Whereas, in 1988, the late Commerce Secretary Brown acted as the senior political advisor to the Dukakis—Bentsen Campaign for President; and

''Whereas, in 1989, the late Commerce Secretary Brown became Chairman of the Executive Committee of the Democratic National Party; and

Whereas, in 1993, after these years of distinguished service to the United States of America, to the Democratic National Party, and to his community, Ronald H. Brown was appointed by United States President Bill Clinton to be Secretary of Commerce; and

Whereas, the late Commerce Secretary Brown achieved the utmost respect as a member of President Clinton's cabinet; and

Whereas, the people of Palau are deeply saddened by the unfortunate and untimely death of the late Commerce Secretary Brown; now therefore, be it

Resolved, That the House of Delegates of the Fourth Olbiil Era Kelulau, Fourteenth Regular Session, April 1996, the Senate concurring, hereby expresses condolences to the family, relatives and colleagues of the late United States Secertary of Commerce Ronald H. Brown for his tragic and untimely death; and be it

Further resolved, That certified copies of this joint resolution be transmitted to Charge d'Affairs Richard Watkins, the President of the Republic of Palau, and the Speaker of the House of Delegates and the President of the Senate of the Fourth Olbiil Era Kelulau.

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. MURKOWSKI:

S. 1851. A bill to convey certain Public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 1852. A bill to bar class action lawsuits against Department of Energy contractors for nonphysical injuries, to bar the award of punitive damages against Department of Energy contractors for incidents occurring before August 20, 1988, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1851. A bill to convey certain Public Lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

THE UNIVERSITY OF ALASKA LAND GRANT ACT

● Mr. MURKOWSKI. Mr. President, today I introduce legislation in support of higher education in the State of Alaska.

Mr. President, the University of Alaska is a land-grant college without the land. In 1915, Congress reserved for Alaska's land-grant institution potentially more than 250,000 acres in the Tanana Valley, proceeds from the sale and development of which—like other land grant institutions—would help finance the operation of the school. Under the terms of the measure, written by Delegate James Wickersham, the college was to receive surveyed and unclaimed Section 33 in an area of about 14,000 square miles between Fairbanks, AK in the north and the foothills of the Alaska Range in the south, this was in addition to the main campus of about 2,250 acres 4 miles from Fairbanks.

However, this large Tanana Valley land grant never materialized. For decades, almost all of the land in the Tanana Valley (like the rest of Alaska) remained unsurveyed and therefore unavailable. As late as the 1950s, only 0.6 percent of Alaska had been properly surveyed under the standard rectangular system, and a territorial report concluded that at the speed Alaska was being surveyed, it could take as long as 43,510 years to complete the job. Due primarily to this incredibly slow pace of Federal land surveys, Alaska's land grant institution received only a fraction of the land Congress reserved for it in 1915; in addition to its 2,250 acre campus, the University of Alaska received less than 9,000 acres out of a reservation created for it totaling approximately 268,000 acres.

To partially remedy the situation, Congress granted an additional 100,000 acres to Alaska's land grant college in 1929, but even with this additional grant, the total was less than half of the original acreage authorized in 1915.

Further efforts to increase the size of Alaska's higher education Federal land grant were made from the 1930s through the 1950s. Several bills were submitted to Congress that would have reserved up to 10 million acres for Alaska's land grant college, but strong opposition, primarily from the Department of the Interior, doomed the effort.

Traditionally, the size of land grants were most often determined by a State's population, not by its area. Nevertheless, some of the last western States were given generous grants despite their sparse populations. For instance, Oklahoma and New Mexico each received about 1 million acres to support higher education. Alaska received less land specifically dedicated for the support of higher education than all but one of the contiguous States. Among the 48 States which had received Federal land or land scrip to establish land grant colleges, mining schools, teachers' colleges, and state universities, only Delaware received fewer acres than Alaska. Thus, after statehood, Alaska in 1959 was in an anomalous position. While the State had received more land and a greater percentage of land from the Federal Government than any other western State, it ranked next to the bottom of the list in the amount of Federal land it had received for higher education.

Over the next 15 years, controversies regarding Alaska land matters continued to boil, as the public domain in Alaska was carved up for the first time. In 1971, Congress passed the Alaska Native Claims Settlement Act, reserving 44 million acres for Alaska Natives and opening the way for the construction of the Trans-Alaska Pipeline. The pipeline marked the start of a national conservation battle in the 1970s over the future of Alaska's lands, which culminated in 1980 with the passage of the Alaska National Interest Lands Conservation Act, a measure which added 104 million acres to the State's conservation systems.

Now, with many of the major Alaska land issues of the 1970s and 1980s settled, supporters of the University of Alaska have encouraged State and Federal officials to reexamine the question of the university's land grant and consider granting the school additional lands in order for it to ''achieve parity'' with higher educational systems in other States.

The legislation I am introducing today would achieve this. It would grant the University up to 350,000 acres of Federal land. It would do this on a matching basis with the State of Alaska for up to a total of 700,000 acres split equally between the state and Federal Government. In other words if Alaska were to grant the University 200,000 acres of State land, the Federal Government would grant them to 200,000 acres.

I believe this is a fair settlement to this issue. It addresses some of the needs of higher education in my State of Alaska and allows the State and the Federal government to participate in the fix equally.●

By Mr. JOHNSTON:

S. 1852. A bill to bar class action lawsuits against Department of Energy contractors for nonphysical injuries, to bar the award of punitive damages against Department of Energy contractors for incidents occurring before August 20, 1988, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY CLASS ACTION LAWSUIT ACT

● Mr. JOHNSTON. Mr. President, over the past 6 months, the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources has, under the able direction of Senator THOMAS, conducted an investigation into the management and cost of class action lawsuits against the contractors that operated the Department of Energy's nuclear weapon plants.

Senator THOMAS' investigation uncovered a serious abuse of the legal system that is costing the taxpayers tens of millions of dollars in lawyer's fees each year and could result in hundreds of millions of dollars in judgments or settlements even though

there is no evidence and, in most cases, no claim that anyone was physically harmed by the operation of these plants.

The problem results from the peculiar legal circumstances under which these cases are brought. Normally, people suing the government for injury must bring their suits under the Federal Tort Claims Act, which affords the taxpayers certain protections. Courts cannot award punitive damages against the Government. Suits must be grounded on specific claims of wrongdoing, not generalized grievances. The Government cannot be subjected to a jury trial or held liable for actions stemming from discretionary policy decisions made by Congress or Executive Branch officials.

None of the protections of the Federal Tort Claims Act applies in these cases because the suits are not brought against the Government itself, but against its contractors. Yet, under the Price-Anderson Act, the Government indemnifies the contractors against any liability or legal costs arising out of the operation of the Department of Energy's nuclear weapons complex. The contractors defend the suits, without the benefit of the Government's normal protections, but the Government pays all the bills.

In sum, we have divorced the power to defend these suits, which rests with the contractors, from the obligation to pay, which remains with the Government. The Government is the real party in interest in these cases, but it has been stripped of all of the legal protections it has in other cases.

Today, I am introducing legislation to correct this problem. My bill is quite simple. It does three things.

First, it prevents lawyers maintaining class action lawsuits against the nuclear weapons contractors for nonphysical injuries. Individual claims for nonphysical injuring could still be pursued. Class action suits could still be maintained for physical injuries. But class actions could not be maintained for nonphysical injuries.

Second, the bill makes the medical monitoring regime established under Superfund the exclusive source of medical monitoring for these cases. The pending cases ask the courts to set up medical monitoring programs costing tens of millions of dollars for tens of thousands of people near these plants. The bill would require the courts to make use of the existing institution instead of creating multiple and redundant new ones.

Third, it bars punitive damages where the government would have to pay them. The Federal Tort Claims Act does this already for suits against the government itself. We thought we were doing this under the Price-Anderson Act when we amended it in 1988, but the 1988 amendments only applied to incidents occurring on or after August 20, 1988, and the pending cases are based on occurrences prior to that date. This amendment extends the 1988 prohibition to apply to incidents occurring before 1988.

These three reforms are the minimum that is needed to address the current problem. Indeed, some might say they do not go far enough. These reforms strike a fair balance that will ensure that anyone who is in fact injured by the operation of the nation's nuclear weapons complex will be compensated. At the same time, they close the loophole in the current law that has allowed a few lawyers to raid the U.S. Treasury on the flimsiest of claims.

I urge all Senators to join me in supporting this measure and ask unanimous consent that the bill be printed in the RECORD.

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

S. 1852

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 ''Department of Energy Class Action Lawsuit Act''.

SEC. 2. CLASS ACTIONS.

Section 170n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by adding after paragraph (3) the following:

''(4)(A) An action may not be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure against any person indemnified by the United States under section 170d. with respect to any claim for a nonphysical injury that arises from a nuclear incident or precautionary evacuation regardless of when it occurred.

''(B) For purposes of this paragraph, ''nonphysical injury'' includes—

''(i) emotional distress and any mental or emotional harm (such as fright or anxiety) that is not directly brought about by a physical injury even though it may manifest itself in physical symptoms; and

''(C) For purposes of this paragraph and paragraph (5), the term ''person indemnified by the United States under section 170d.'' means any person indemnified by the United States—

''(i) under section 170d.; or

''(ii) under any other authority that obligates the United States to make payments relating to a nuclear incident or precautionary evacuation that arises from activities conducted under contract with the Department of Energy or any of its predecessor agencies.''

SEC. 3. MEDICAL MONITORING.

Section 170n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is further amended by adding at the end the following:

''(5)(A) Except in the case of an extraordinary nuclear occurrence, medical monitoring provided by the Agency for Toxic substances and Disease Registry under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(i)) shall be the exclusive remedy for any claim for medical monitoring in a public liability action against a person indemnified by the United States under section 170d. No court may grant a remedy for a claim for medical monitoring in a public liability action except in the case of an extraordinary nuclear occurrence or as provided in section 310(a)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9659(a)(2)).

''(B) For purposes of this paragraph, ''medical monitoring'' includes any medical screening, testing, or surveillance program intended to detect, study, prevent, or treat bodily injury, sickness, disease, or death that may arise from a nuclear incident or precautionary evacuation.''.

SEC. 4. PUNITIVE DAMAGES.

Section 170s. Of the Atomic Energy Act of 1954 (42 U.S.C. 2210(s)) is amended to read as follows:

''(s.) LIMITATION ON PUNITIVE DAMAGES.—No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under any agreement of indemnification covering the incident or evacuation, regardless of—

''(A) when the incident or evacuation occurred; or

''(B) whether the agreement of indemnification was entered into under this Act or under any other authority.''.

SEC. 5. ACTIONS COVERED.

The provisions of this Act shall apply to any public liability action (as defined in section 11hh. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(hh)) that is pending on the date of the enactment of this Act or commenced on or after such date.●

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1437

At the request of Mr. THURMOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1437, A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health.

S. 1452

At the request of Mr. GRAMS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1452, a bill to establish procedures to provide for a taxpayer protection lockbox and related downward adjustment of discretionary spending limits and to provide for additional deficit reduction with funds resulting from the stimulative effect of revenue reductions.

S. 1477

At the request of Mrs. KASSEBAUM, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1477, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 1632

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois