

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 lock-box 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

[Mr. SIMON] was added as a cosponsor of S. 1632, a bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1755

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1755, a bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to provide that assistance shall be available under the noninsured crop assistance program for native pasture for livestock, and for other purposes.

ADDITIONAL STATEMENTS

RECOGNITION OF NORTHERN TELECOM FOR RECEIVING THE CORPORATE CITIZENSHIP AWARD

• Mrs. HUTCHISON. Mr. President, I rise today to recognize and congratulate a distinguished corporate citizen of my home State of Texas. As you may know, Northern Telecom [Nortel], a telecommunications equipment manufacturer based in Richardson, TX, recently received the first annual Corporate Citizenship Award from the Committee on Economic Development [CED].

The CED is an independent, non-partisan educational research organization of 250 top business, leaders, economists, and university presidents. CED represents no single industry or special interest group, nor does it lobby. For more than 50 years, CED's recommendations have played a major, often decisive, role in critical policy areas such as American competitiveness, government and business management, energy security, education, and job creation. The CED's Corporate Citizenship Award was created to salute those companies that have demonstrated both an active involvement in the policy dialog and a carefully considered commitment to the communities in which they operate and society at large.

Nortel received the award in recognition of the principles of corporate and civic responsibility that have guided the company throughout its 100-year history. The award cited Nortel's investment in research and development, the training and education of its workers, the quality of its management, as well as the company's strong and ongoing commitment to education, the preservation of the arts and culture, and community service.

With over 5,000 employees, Nortel is a global telecommunications leader. It is with much pride, Mr. President, that I urge my colleagues to join me today in congratulating the Nortel family on this much-deserved distinction.●

1997 BUDGET RESOLUTION VOTES

• Mr. KERREY. Mr. President, I would like to take this opportunity to thank my colleagues for their support of the Kerry-Simpson-Nunn-Brown-Robb long-term entitlements amendment. My colleagues and I were a mere 14 votes away from passing legislation to begin the process of changing our entitlement laws. The support for this type of long-term reform is unprecedented, due in no small measure to our persistence on this matter.

I am particularly gratified because the reforms we advocated did not simply tinker around the edges of our budgetary dilemmas. Our adjustment to the Consumer Price Index would have saved the country \$126 billion over 7 years; the phasing in of the Medicare eligibility age to 70 would eventually, by 2030, in 1 year alone save \$41.1 billion in 1996 dollars; and our provision would have given more than 120 million working Americans the chance to start accumulating their own wealth through personal investment plans.

Mr. President, the fiscal imbalance of entitlements versus discretionary spending threatens our implicit intergenerational compact to leave a prosperous and growing economy to the next generation of Americans. The great demographic shift that will occur over the next 20 or 30 years—when the baby boom generation reaches retirement age—will largely shape our Nation's future. Accordingly, these changes must be met with new assumptions, different rules, and a fresh perspective.

That is what my colleagues and I offered. With growing support from both sides of the aisle and increased public awareness, perhaps soon we will get the votes we need to pass long-term entitlement reform. So, I am encouraged.

Accordingly, I would also like to briefly comment on other amendments offered to the budget resolution which I chose to vote against.

Several amendments were offered to the Republican budget resolution to restore funding to education, Medicaid, and the environment. While I agreed that the spending cuts to these programs in the budget resolution, particularly education, were severe and counterproductive—I could not vote for the add back amendments as they were written. In order to balance the budget and according to budget rules, amendments which add money back to programs in the budget resolution must be offset by cuts in other areas of Government spending. Each of the add back amendments I voted against used unspecified cuts to corporate welfare to pay for them. I realize that this might look like a good idea to the average citizen—cuts to corporations to fund education—but it's not always that simple.

"Corporate welfare" can be a very loosely defined and overused term. The reality is that most of us support—and more importantly benefit from—something that someone could call corporate welfare. The home mortgage deduction is a prime example. Some peo-

ple would say it qualifies as corporate welfare for the real estate industry. However, if Congress ended the program today, we would hear the furious cry of the people claiming that we had increased their taxes. The self-employed health insurance deduction is another example. So is the research and development tax credit—and the list goes on. These obviously were not the programs my colleagues had in mind. But I felt I needed a better sense of what they did have in mind before I joined them in support of these amendments.

Please do not misunderstand, I believe there are many places where Government can cut back on spending—including unfair tax breaks for corporations. But we cannot use cuts to corporate welfare as a panacea to cure all our budget ills. I believe we must examine each program for its merits before deciding to eliminate it. Had the add-back amendments in the budget resolution been more specific on which items were to be used as offsets, my votes may have been cast quite differently.

Moreover, as I mentioned earlier, the most responsible way to solve our budget problems is not to tinker on the edges, cutting slices from corporate welfare or discretionary spending. We must address the unsustainable growth of entitlement spending if we want to bring our budget into long-term balance. The support for our long-term entitlement amendment was an important first step to getting us there.●

SMALL BUSINESS WEEK

• Mr. GORTON. Mr. President, this week is Small Business Week, during which we honor and express our appreciation for the men and women who, by dint of hard work and risktaking, help keep the American economy going strong and create jobs for millions of their fellow citizens.

The life of a small business owner is not easy: Long hours, uncertain finances, competition, the very real chance of failure. Add to these burdens Federal taxes and regulations, and you have a rough road indeed. Many small business people will tell you that the Federal tax and regulatory burden is an obstacle to growth, and that the Federal Government's excessive interference poses a threat not only to their growth, but in some cases to their very survival. It's time the Government got off the backs of small businesses, and stopped throwing obstacles in the way of their success.

Because small businesses are so vital to our economy, and because so many American workers benefit from employment in small businesses, Congress is working to relieve some of the tax and regulatory burdens on small business owners so that they may be free to grow, create jobs, and contribute even more to the economy.