

broadcasters play a key role in our communities. They provide local news, local weather, and public service programming.

Viewers depend on these local broadcasts to find out what is going on in their community: When the school board, the PTA, and the city council are meeting, or when there is a parade or a fundraiser for their church or a civic group.

Local broadcasters are vital to our communities. They provide jobs, and they allow local businesses to grow through advertising. In short, the importance of local broadcasting is evident in all parts of community life.

Local broadcasters also provide network programming: NBC, ABC, CBS, and FOX. Nineteen of the 20 TV stations in Montana are affiliated with some of these networks or with PBS. These stations air national news, sports, and entertainment at times of the day when people with jobs and kids can watch them.

Without local broadcasts, you might miss the evening network news because it comes on before you get home from work or because it airs late at night. People want local network coverage because it works in their own lives and in their local community.

Until now, technology has not provided for rebroadcast of local signals by satellites. Many rural residents have not been able to get decent reception over the air.

Of course, we in the Senate cannot change technology or geography, but what we can do is change the law. We can make local-into-local broadcasting a reality, and we should.

Last spring, we passed H.R. 1554. At the time, we neglected an important responsibility. The language we passed would have required the turnoff of network programming to many rural satellite viewers. It would have done nothing to help the many local broadcasters in smaller cities and towns. It was an oversight.

Following the vote, I wrote a letter to the conference asking they pay attention to the needs of the many viewers, communities, and stations that had been ignored. Twenty-three of my colleagues, from both sides of the aisle, signed the letter.

As you know, Madam President, the conference on the satellite bill has paid little attention to our request. The language of the conference report, now titled the "Intellectual Property and Communications Omnibus Reform Act of 1999," includes some important new provisions.

It does allow satellite viewers in poor reception areas, the so-called "grade B contour" viewers, to continue to get network programming from satellites. Without this, many satellite viewers will lose their network TV at the end of next month.

It also includes a loan guarantee that will make it possible for all local stations to broadcast on satellite, not just those in the very largest cities and towns.

Without this, the other local-into-local provisions of the act are an empty promise to rural and small town America that depends on satellites.

Last week, the House passed the conference language by a near unanimous vote. But in the Senate, a few Members—and I might say, on the other side of the aisle—are blocking a vote on this conference report. They say: We promise to have more hearings. We should have another committee look at this.

They might as well say: Let them watch the radio.

The Senate should act now to ensure that the conference report language becomes law. It is clear the majority of the Senate is ready to vote to approve the measure, just as the House did. Instead, we are offered a weakened version attached to the omnibus appropriations bill, which we will get sometime soon, and a weak promise to do something next year.

This is a no-brainer. There are many people in rural America who would like to add satellite TV, network programming from their local stations. It is that simple. We have it within our power today to very simply pass a provision and provide for the financing, a loan guarantee. We all know it is going to pass. We all know we are going to do it. But there is one Senator who wants it in his committee. And I say, that one Senator represents a State where there are a lot of people who I think want local-into-local broadcasting from the satellites.

There are millions of Americans who depend on their satellites and want local network coverage—not national network coverage—or at least the option to get both local and national.

This is a no-brainer. I get more mail on this subject than any other subject. I daresay, Madam President, you probably get a lot of mail on this subject, too. I know a lot of Senators probably get as much mail on this one subject as any other. And we can simply solve it today very easily. It makes no sense for us not to.

Madam President, I yield the floor.

NOMINATION OF T. MICHAEL KERR

Mr. NICKLES. Mr. President, I want to make a few comments regarding the nomination of T. Michael Kerr to be Administrator of the Wage and Hour Division of the Department of Labor. I held up this nomination until I could secure an agreement regarding the issue of unauthorized break time from the Secretary of Labor, outlined in a letter I will submit for the RECORD.

The need for this agreement with the Secretary was precipitated by a case pending before the Wage and Hour Division regarding an employee exceeding the allotted time for a rest/period break, and an employer deducting from the employee's compensation the time taken in excess of the break time.

The Fair Labor Standards Act does not require employers to provide its

employees with a rest period/breaks. Nevertheless, many employers offer short breaks to their employees. Although the duration of a voluntary break is up to the employer, the breaks generally run between 5 and 20 minutes.

The Department of Labor does recognize that employers have the flexibility to determine the number of breaks and the length of breaks that they offer to their employees. The Department of Labor has taken the position that when an employer allows its employees to take a short break and an employee abuses the break time policy by exceeding the time that the employer allotted for the break, the employer must still compensate the employee for the first 20 minutes of the break.

Further, the Department of Labor has taken the position that if an employer offers its employees a compensable break of less than 20 minutes in duration, and an employee's break time exceeds the time that the employer allotted for the break, then the employer's only recourse against the employee is disciplinary action (such as a reprimand or termination), or elimination of the rest period.

Under the agreement I reached with the Secretary, the Department of Labor will conduct a complete review of its policy regarding unauthorized breaks. That review will be completed by February 1, 2000. Upon completion of the review, the Department of Labor will submit its findings in writing to the Chairman and Ranking Members of the relevant committees in the House and the Senate. The review will include consideration of what outcome is in the best interest of the employee if the employee exceeds the allotted time of a rest period/break: disciplinary action against the employee (such as a reprimand or termination); elimination of the rest period/break option; or deductions of compensation for the time in excess of the allotted break time.

Also, the Secretary committed the Department of Labor will assure that the resolution of any cases in which unauthorized break times are at issue, will be consistent with the findings in their review.

This is an important review of what is clearly an outdated policy. I look forward to the outcome of their review, and I thank the staff at the Department of Labor for working in good faith with my office, and the Secretary for working to a quick resolution of this issue so this nomination can move forward.

I ask unanimous consent that a letter from the Secretary of Labor be printed in the RECORD.

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

SECRETARY OF LABOR,

Washington, DC, November 18, 1999.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: This is a follow-up to the meeting of our respective staffs yesterday. While the Department of Labor recognizes that employers have the flexibility to determine the number and length of breaks they offer to their employees, the Wage and Hour Division has taken the position that if an employer offers a break of less than 20 minutes in duration, the time the employee spends on that break typically is compensable hours worked under the Fair Labor Standards Act.

Most of the Wage and Hour Opinion Letters that address this issue involve authorized breaks. However, on several occasions, the Wage and Hour Administrator has stated that short unauthorized breaks may also count as hours worked. Wage and Hour has taken the position that if an employee exceeds the time allotted for an authorized break, an employer may take a disciplinary action against the employee, or the employer may eliminate the option for rest periods/breaks.

I am committing the Wage and Hour Division and the Solicitor's Office to carefully review our policy with respect to the compensability of unauthorized break time under the FLSA. Our review will specifically include those instances in which employees exceed the time allowed for a rest break. We will also consider what outcome is in the best interests of the employee if the employee exceeds the allotted time for a rest period/break, including the option of deductions of compensation for the time taken in excess of the allotted break time.

As part of our review, we will consider the statutory text, relevant legislative history and regulatory material, case law, previous Wage and Hour Opinion Letters, changing technology and any information that your office or a member of the public may provide. We will complete our review of this matter by February 1, 2000, and transmit our conclusions and supporting rationale in writing to the Chairman and Ranking Members of the relevant committees in the House and the Senate.

It is important that all officials of the Wage and Hour Division interpret and apply the law in a uniform manner, and so advise the public. I will instruct the Wage and Hour Division to assure that the resolution of any cases in which unauthorized break time are at issue is consistent with the outcome we reach in our overall review.

I very much appreciate your interest in these important questions.

Sincerely,

ALEXIS M. HERMAN.

COMPENSATING CERTAIN DEPARTMENT OF ENERGY WORKERS

Mr. THOMPSON. Mr. President, yesterday, my colleague from New Mexico, Senator BINGAMAN, and I introduced legislation that is, frankly, long overdue.

For more than 2 years, I have been concerned that the Department of Energy was not taking seriously the complaints of a number of workers in Oak Ridge, Tennessee who are ill and who believe that their illnesses are linked to their employment at the DOE site in Oak Ridge. In November of 1997, two years ago, I wrote to the then-Surgeon General, Dr. David Satcher, to request

that the Centers for Disease Control, CDC, come to Oak Ridge to try to determine whether a pattern of unexplained illnesses was present and, if so, if its cause could be determined. The CDC study, like others before it, looked at a narrow sample of individuals and did not produce conclusive results.

Since then, I have been working to get the Department of Energy to acknowledge that there is a problem, that certain of its current and former workers are ill, and that they should work with us to address the situation. This legislation—which we developed in conjunction with the Department—is an important step in that direction.

It says, for the first time, that if mistakes were made, and if harm was done to workers who helped this country win the Cold War, we need to act now to remedy those mistakes. It represents a recognition on the part of the government that if people have illnesses that are linked to their employment at a Department of Energy facility, they deserve compensation. That is progress, and I am proud to be a part of it.

Our bill has three parts. The first section, the Energy Employees' Beryllium Compensation Act, would provide compensation to current and former workers who have contracted chronic beryllium disease or beryllium sensitivity while performing duties uniquely related to the Department of Energy's nuclear weapons production program. There are approximately 90 Oak Ridge workers who have been diagnosed with either chronic beryllium disease or beryllium sensitivity to date, and a total of 2,200 Oak Ridge workers who were potentially exposed.

The second section, the Energy Employees' Pilot Project Act, would establish a special pilot program for a specific group of 55 Oak Ridge workers who are currently the subject of an investigation by a panel of physicians specializing in health conditions related to occupational exposure to radiation and hazardous materials. This section authorizes the Secretary of Energy to award \$100,000 each to those Oak Ridge workers whose illnesses are determined to likely be linked to their employment at the Oak Ridge site.

Finally, our bill creates the Paducah Employees' Exposure Compensation Fund, which would compensate those current and former workers at the Paducah, KY gaseous diffusion plant who were exposed to plutonium and other radioactive materials without their knowledge, and who develop one of a specified list of conditions linked to radiation exposure. I want to note that there are workers at the K-25 gaseous diffusion plant in Oak Ridge who were exposed to the same contaminants as those in Paducah, and workers in Portsmouth, Ohio who were similarly affected as well. It is my hope that these two groups of workers would be added to this section of the legislation, upon the conclusion of the Department of Energy's investigation into what

happened at these two sites, if the facts so warrant. Their absence at this time should in no way indicate that either the sponsors of this bill or the Department of Energy believe that they were not similarly affected. I strongly believe that workers at all of the DOE sites must be treated equally in this process, and I am committed to doing all I can to ensure that that is the case.

Let me just remind my colleagues who it is we are talking about. We are talking about workers who participated in the Manhattan Project, men and women who helped to ensure the superiority of America's nuclear arsenal, and who directly contributed to our nation's victory in the Cold War. We owe them a debt of gratitude. And if we put them in harm's way without their knowledge, it's time for us to make that right. This bill is a step in that direction. I look forward to its consideration by the Senate.

PAIN RELIEF PROMOTION ACT

Mr. NICKLES. Mr. President, on June 23, 1999, Senator LIEBERMAN and I introduced S. 1272, the Pain Relief Promotion Act, which addresses two specific concerns. First, it provides federal support for training and research in palliative care. Second, it clarifies federal law on the legitimate use of controlled substances. On October 27, 1999 the House passed its companion measure H.R. 2260 by the resounding bipartisan vote of 271 to 156. It is my hope that the Senate will soon have the opportunity to debate and vote on this important legislation.

In anticipation of that debate, and in light of inaccurate characterizations of the second aspect of our bipartisan legislation, I believe it is important for me to ensure that the Record reflects precisely how this bill will—and will not—affect current federal law with regard to Drug Enforcement Administration (DEA) oversight of the use of federally controlled substances.

To understand the effect the Pain Relief Promotion Act will have on pain control, we must begin with what the law is now. The Controlled Substances Act, CSA, of 1970 charged the DEA with the responsibility of overseeing narcotics and dangerous drugs—including powerful prescription drugs which have a legitimate medical use but can also be misused to harm or kill. In asserting its authority over these drugs, Congress declared in the preamble of the Controlled Substances Act of 1970 that "Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic" (21 U.S.C. 801 (6)).

In 1984, Congress amended the CSA due in part to a specific concern regarding the misuse of prescription drugs in lethal overdoses. The then Democratic-controlled House and a Republican Senate further strengthened the Act, empowering the DEA to revoke a physician's federal prescribing