

body had confirmed him nearly 8 years ago. While policy differences certainly are an important and accepted part of the legislative process, acts of retribution against individual public servants—which this rider is—should not be tolerated.

Mr. Lyons does not deserve this treatment. During his USDA career, he has faithfully pursued the President's policies, spearheading major reforms in the management of both the Forest Service and the Natural Resources Conservation Service, NRCS, and helping to develop the Forest Service's new natural resources agenda, which is focused on watershed protection, recreation, road management reform and sustainable forestry.

Under Mr. Lyons' leadership, the Natural Resources Conservation Service has assumed a leadership role for the Administration in promoting conservation of the nation's private lands and has taken on an expanded role in protecting clean water and fish and wildlife habitats. Mr. Lyons has advocated establishing riparian buffers to capture nutrient and pesticide runoff, promoted efforts to protect farm and forest lands threatened with development, and encouraged strategies to protect drinking water supplies at their source.

Mr. Lyons was also the principle architect of the President's Northwest Forest Plan conserving old-growth forests and promoting sustainable forestry. He has initiated efforts to assess forest ecosystem health in the Columbia River Basin, the Sierra Nevada and the southern Appalachians. He directed key acquisitions and additions to the National Forest System, and has overseen purchase of lands including New Mexico's Baca Ranch and the New World Mine near Yellowstone National Park. He was instrumental in the establishment of the Giant Sequoia National Monument.

Mr. Lyons continues to lead USDA efforts on the presidential initiative to protect remaining national forest roadless areas. He helped craft the President's report on this year's devastating wildfires and then worked to shape the emergency funding package that will be used to restore fire-damaged forest lands and reduce the risks to communities from future wildfires. Mr. Lyons has promoted outdoor recreation on the national forests and created new programs and partnerships to improve urban forestry and conservation activities.

In the Black Hills of South Dakota, Mr. Lyons worked with me to resolve differences between the timber industry and environmentalists that allowed timber harvesting to proceed in a responsible and environmentally sensitive manner. This experience demonstrated Mr. Lyons' ability to work with diverse interests in the pursuit of sound, common sense policies that reconcile multiple use objectives.

President Clinton's approach to the stewardship of our national resources

is clear, and Mr. Lyons has been faithful to that vision. His public record over the past eight years identify him as a leading conservationist and an effective agent of change, not only within the Department of Agriculture, but also within the Administration.

Mr. President, I regret that, as the end of the Clinton Administration approaches, one of its longest serving subcabinet officials has been targeted for retribution as a result of a disagreement over policy. Personal attack should never become an accepted method for settling policy differences. I hope that the politics of personal intimidation can be removed from our policy debates.

Finally, I ask unanimous consent to print a recent New York Times editorial on this subject in the RECORD.

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

PETTINESS ON CAPITOL HILL

Marion Berry, a Democratic Representative from Arkansas, has raised Congressional arrogance to a new level.

Gripped by ideological fury in June, Mr. Berry added a provision to the agricultural spending bill stripping funds from the office of James Lyons, an under secretary of agriculture who oversees the Forest Service and the Natural Resources Conservation Service. Mr. Lyons' Republican critics later modified the amendment so that it left the funding intact but stripped him of his authority to run the agencies. Either way, it was clear that Mr. Lyons had been singled out for special abuse, and that Mr. Berry had started the crusade.

What had Mr. Lyons done to deserve this? According to Mr. Berry himself, the under secretary's main sin was to side with the Environmental Protection Agency when it decided to enforce a long-dormant provision of the Clean Water Act to get a better grip on polluted runoff from so-called "non-point" sources like farms, city streets and golf courses. Mr. Lyons helped the E.P.A. establish a timetable that would enable farmers to comply with the law on a reasonable schedule. But he never challenged the agency's authority to enforce the law, as some agricultural lobbyists had hoped he would, nor was he, in Mr. Berry's view, sufficiently pro-farmer in his negotiations.

A conservationist, Mr. Lyons has angered members of Congress before, not least for his support of President Clinton's plan to put millions of acres of the national forests off-limits to new roads, as well as his efforts to enlarge protections for Alaska's Tongass National Forest. But nobody had gone so far as to undermine his job. The White House, already worn out from its efforts to block anti-environmental riders in other bills, is unlikely to fight this one, in part because it will have no serious effect on the two agencies or even on Mr. Lyons himself. The provision expires Jan. 20, when Mr. Lyons will leave Washington to teach at Yale. But it is still a petty gesture that brings no honor on Mr. Berry or the other congressmen who have willingly gone along with his vendetta.

SECTION-BY-SECTION ANALYSIS OF THE PAIN RELIEF PROMOTION ACT

Mr. NICKLES. Mr. President, on October 25, 2000, Representative HENRY HYDE introduced H.R. 5544, the Pain

Relief Promotion Act of 2000. The text of the legislation is based on the Senate Judiciary committee substitute to H.R. 2260, the Pain Relief Promotion Act, ordered reported out of the Senate Judiciary Committee on April 27, 2000.

For the information of all Members of Congress, I offer the following section-by-section analysis of the legislation.

I ask unanimous consent that the material be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS—PAIN RELIEF PROMOTION ACT OF 2000, H.R. 5544

Section 1. Short title

Entitles the act the "Pain Relief Promotion Act of 2000."

Section 2. Findings

Makes a series of findings about the importance of emphasizing pain management and palliative care in the first decade of the new millennium, the regulation of drugs with a potential for abuse under the Controlled Substances Act, the use of such drugs by practitioners for legitimate medical purposes, especially the purpose of relieving pain and discomfort even if it increases the risk of death, the need for improved treatment of pain, and the fact that dispensing and distributing such drugs affects interstate commerce.

TITLE I

Section 101. Activities of Agency for Healthcare Research and Quality

This section amends the Public Health Services Act by authorizing a program responsibility for the Agency for Healthcare Research and Quality in the Department of Health and Human Services to promote and advance scientific understanding of palliative care. The Agency is directed to collect and disseminate protocols and evidence-based practices for pain management and palliative care with priority for terminally ill patients.

The section is specifically made subject to subsections (e) and (f) of section 902 of the Public Health Service Act [42 U.S.C. 299a(e) and (f)], added by the Healthcare Research and Quality Act of 1999, Public Law 106-129, which prevent the mandating of national standards of clinical practice. This section has a definition of pain management and palliative care which is a modified version of the World Health Organization's definition of palliative care.

Section 102. Activities of Health Resources and Services Administration

This section amends the Public Health Services Act by authorizing a program for education and training in pain management and palliative care in the Health Resources and Services Administration of the Department of Health and Human Services. This section allows the Secretary, in consultation with the Director of the Agency for Healthcare Research and Quality to award grants, cooperative agreements and contracts to health professions schools, hospices, and other public and private entities to develop and implement pain management and palliative care education and training programs for health care professions.

This section requires the applicant for the award to include three educational informational components in the program: (1) the program must have a component that addresses a means for diagnosing and alleviating pain and other distressing signs and

symptoms of patients, especially in terminally ill patients, including the use of controlled substances; (2) the program must provide information and education on the applicable laws on controlled substances, including those permitting dispensing or administering them to relieve pain even in cases where such efforts may unintentionally increase the risk of death, and (3) the information and education must provide recent findings and developments in the improvement of pain management and palliative care. Health professions schools, residency training programs, continuing education, graduate programs in the health professions, hospices, and other sites as determined by the Secretary will be used as program sites.

This section also requires the Secretary to evaluate the programs directly or through grants or contracts and mandates that the Secretary include individuals with expertise and experience in pain management and palliative care for the population of patients whose needs are to be served in each peer review group involved in the selection of the grantees.

Five million dollars annually are authorized to carry out these programs.

Section 103. Decade of pain control and research

This section designates the decade beginning January 1, 2001, as the "Decade of Pain Control and Research."

Section 104. Effective date

This section makes title I effective on the date of enactment.

Section 201. Reinforcing existing standard for the legitimate use of controlled substances

This section amends the Controlled Substances Act to establish that physicians and other licensed health care professionals holding DEA registrations are authorized to dispense, distribute, or administer controlled substances for the legitimate medical purpose of alleviating a patient's pain or discomfort in the usual course of professional practice even if the use of these drugs may increase the risk of death.

Essentially, this provision makes clear that there exists a "safe harbor" for those who dispense controlled substances for pain relief and palliative care, even if such treatment increases a patient's risk of death. The Department of Justice (DOJ) has taken the position that the Pain Relief Act "would eliminate any ambiguity about the legality of using controlled substances to alleviate the pain and suffering of the terminally ill by reducing any perceived threat of administrative and criminal sanctions in this context."

Without creating any new Federal standard, this section also ensures that the new safe harbor is not construed to change the proper interpretation of current law that the administration, dispensing, or distribution of a controlled substance for the purpose of assisting a suicide is not authorized by the Controlled Substances Act. Individuals covered by the CSA would not be subject to any new liability under the statute—with the exception of those who would attempt in the future to rely on the Oregon Act as a defense to alleged violations of the CSA.

This section further provides that the Attorney General in implementing the Controlled Substances Act shall not give force or effect to any State law permitting assisted suicide or euthanasia. This effectively overturns the June 5, 1998 ruling of the Attorney General insofar as that ruling concluded "the CSA does not authorize DEA to prosecute, or to revoke the DEA registration of, a physician who has assisted in a suicide in compliance with Oregon law [or the law of any other state that might authorize assisting suicide or euthanasia]."

This section provides that the provisions of the bill are effective only upon enactment with no retroactive effect. This means that the Oregon statute will serve as a defense for any actions taken in compliance under the Oregon law prior to the enactment of H.R. 5544.

This section further provides that nothing in it shall be construed to alter the roles of the Federal and State governments in regulating the practice of medicine, affirming that regardless of whether a practitioner's DEA registration is deemed inconsistent with the public interest, the status of the practitioner's State professional license and State prescribing privileges remain solely within the discretion of State authorities.

This section also provides that nothing in the act is to be construed to modify Federal requirements that a controlled substance may be dispensed only for a legitimate medical purpose nor to authorize the Attorney General to issue national standards for pain management and palliative care clinical practice, research, or quality, except that the Attorney General may take such other actions as may be necessary to enforce the act.

This section provides that in any proceeding to revoke or suspend a DEA registration based on alleged intent to cause or assist in causing death in which the practitioner claims to have been dispensing, distributing, or administering controlled substances to alleviate pain or discomfort in the usual course of professional practice, the burden rests with the Attorney General to prove by clear and convincing evidence that the practitioner's intent was to cause or assist in causing the death.

Section 202. Education and training programs

This section directs educational and research training programs for law enforcement to include means by which they may better accommodate the necessary and legitimate use of controlled substances in pain management and palliative care.

Section 203. Funding authority

This section designates the source of funds for carrying out duties created under some provisions of the Controlled Substances Act, as amended by H.R. 5544.

Section 204. Effective date

This section establishes that the effective date of the act is that of its enactment.

THE COUNTERTERRORISM ACT OF 2000

Mr. LEAHY. Mr. President, Senator KYL spoke on the floor yesterday about the Counterterrorism Act of 2000, S. 3205, which he introduced two weeks ago on October 12, 2000. I had planned to speak to him directly about this legislation when I got into the office yesterday, but before I had the opportunity to speak to him, even by telephone, my colleague instead chose to discuss this matter on the Senate floor.

I have worked with Senator KYL to pass a number of matters of importance to him in past Congresses and in this one. Most recently, for example, the Senate passed on November 19, 1999, S. 692, the Internet Gambling Prohibition Act, and on September 28, 2000, S. 704, the Federal Prisoner Health Care Copayment Act. Moreover, in the past few months, we have worked together to get four more judges in Arizona. I was happy to help Senator KYL clear each of those matters.

Unlike the secret holds that often stop good bills from passing often for no good reason, I have had no secret hold on S. 3205. On the contrary, when asked, I have made no secret about the concerns I had with this legislation.

An earlier version of this legislation, which Senator KYL tried to move as part of the Intelligence Authorization bill, S. 2507, prompted a firestorm of controversy from civil liberties and human rights organizations, as well as the Department of Justice. I will include letters from the Department of Justice, the Center for Democracy and Technology, the Center for National Security Studies and the American Civil Liberties Union for the RECORD at the end of my statement. I shared many of the concerns of those organizations and the Justice Department.

I learned late last week that Senator KYL was seeking to clear S. 3207 for passage by the Senate, even though it had been introduced only the week before. I do not believe the Senate should move precipitously to pass a bill that has garnered so much serious opposition before having the opportunity to review it in detail and ensure that earlier pitfalls had been addressed. Let me say that having reviewed the bill introduced by Senator KYL, it is apparent that he has made efforts to address some of those serious and legitimate concerns.

Senator KYL has suggested that if the Justice Department was satisfied with his legislation, I or my staff had earlier indicated that I would be satisfied. I respect the expertise of the Department of Justice and the many fine lawyers and public servants who work there and, where appropriate, seek out their views, as do many Members. That does not mean that I always share the views of the Department of Justice or follow the Department's preferred course and recommendations without exercising my own independent judgment. I would never represent that if the Justice Department were satisfied with his bill, I would automatically defer to their view. Furthermore, my staff has advised me that no such representation was ever made.

That being said, I should note that the Department of Justice has advised me about inaccurate and incorrect statements in Senator KYL's bill, S. 3205, which are among the items that should be fixed before the Senate takes up and passes this measure.

I have shared those items and other suggestions to improve this legislation with the cosponsor of the bill, Senator FEINSTEIN, whose staff requested our comments earlier this week. My staff provided comments to Senator FEINSTEIN, and understood that at least in the view of that cosponsor of this bill, some of those comments were well-taken and would be discussed with Senator KYL and his staff. Indeed, my staff received their first telephone call about S. 3205 from Senator KYL's staff just yesterday morning, returned the call without finding Senator KYL's