Mr. WYDEN. I thank the Senator.

OREGON'S ASSISTED SUICIDE LAW

Mr. WYDEN. Mr. President and colleagues, I take the floor this afternoon because it is my understanding that democracy in Oregon has won at least a temporary victory. I have been informed that there will be nothing attached to the comprehensive spending bill that would override Oregon's assisted suicide law.

While I intend to be very vigilant to monitor any further discussions that take place on this matter, I come today to talk about why this issue is so important not just to my constituents but to all Americans. And I also thank the participants in the budget negotiations for their willingness to leave out this matter that is so complicated and controversial.

I had informed the leadership of both political parties that I was prepared to speak at considerable length if there had been an effort as part of the final budget bill to toss Oregon's ballot measure on assisted suicide into the trash can. I was prepared to do this in spite of the fact that I have personal reservations about assisted suicide. I was prepared to do this because I believe that nothing is more important than the people's right to govern themselves.

When the people of our States have made difficult decisions, difficult moral decisions about matters that have historically been within the purview of the State governments, it is out and out wrong for the Congress to butt in and override those decisions of voters in the States.

The voters of my State have spoken clearly. In two separate referendums, the verdict was clear: Physician-assisted suicide should, under limited circumstances, be legal in the State of Oregon. If the Congress of the United States, meeting 3,000 miles away, had tossed those decisions aside, in a last-minute backroom deal, it would have been a great insult to the people of Oregon and in my view would have contributed mightily to skepticism and cynicism about Government.

It would have been a mistake because there were many questions raised about the measure drafted by the Senator from Oklahoma who, it seems to me, is very sincere about his interest in this subject. In addition to overriding the popular will of the people of my State, his measure would have also set back considerably the cause of better pain management for patients in end-of-life care.

That would have had serious consequences for the treatment of patients in severe pain across this country. His measure would have great implications not just for the people of Oregon, but for the people of all our States. More than 55 groups representing the medical community, many of whom oppose physician-assisted suicide, joined together in an unprecedented coalition to oppose the legislation of the Senator from Oklahoma because of their fear that doctors and other medical providers would be hampered. They feared that the cause of providing pain care to their patients would be set back by the way the legislation by the Senator from Oklahoma was written. I thank all of these groups for their commitment to humane care and for their hard work on this issue.

The key groups that led the coalition were: The Americans for Better Care of the Dying, the American Geriatrics Society, the American Pharmaceutical Association, the National Hospice Organization, the American College of Physicians-American Society of Internal Medicine, and the American Medical Association.

One of the reasons that so many of these groups worked so hard with respect to keeping out of the spending bill legislation that would overturn Oregon's law was their sincere belief that the legislation by Senator NICKLES would have harmed the effort to promote good pain management.

The Nickles legislation would have given the Drug Enforcement Administration new authority to look at every prescription of a controlled substance to determine for what it was intended. In addition, doctors and pharmacists under this legislation have had to be mind readers about what their patients were going to do with one of the drugs that was used under the Controlled Substances Act. Was the patient going to take a medication as prescribed for pain management, or would they have sought to use it to kill themselves?

There is ample scientific evidence that pain management is not performed as well as it might be at this time. And to add further complexities and a broader role for an agency like the Drug Enforcement Administration to step into an area where it has never been before would have, in my view, added additional barriers and complexities to the effort to promote hospice care, palliative care, comfort care, and advance the science of pain management.

Recently, the findings of a study in Oregon done in 1997 were published that show that families reported relatively constant levels of moderate to severe pain during their loved one's final week of life. During the final months in 1997, families reported higher rates of moderate to severe pain for those dying in acute care hospitals. There was one exception, which was when a loved one died in an acute care hospital in late 1997. An important study showed a statewide trend indicating that there were in so many cases moderate to severe pain for these individuals in the last week of life who would have required a physician and others to step in and advocate for those patients.

I have received many letters and a great deal of e-mail from chronic pain patients. These stories are heartbreaking. They point out that it could be any one of us or any one of our loved ones or constituents who finds themselves in chronic, excruciating pain as a result of an accident or through the development of some painful, chronic disease.

Unfortunately, pain patients in the current regulatory environment feel in many instances—and they have told me—as if they are treated like junkies, and that their providers are extremely nervous about how to use pain management in a climate where, had the Nickles legislation been adopted, certainly you would have had the Federal Government looking over the shoulders of doctors and pharmacists with respect to their motivation in prescribing drugs for those who are suffering these acute health and chronic ailments.

We need to do a great deal more. We can do it on a bipartisan basis to advance the cause of pain management. I have had a number of discussions on this matter with Senator MACK, who has done, in my view, excellent work on a number of health issues. Senator SMITH of my State is greatly interested in these matters. I believe we ought to work together so that early next year we can bring before the health committees—and I see our friend from the State of Texas, the chairman of the Subcommittee on Health Care, is here; he has a great interest in these issues—a bipartisan package to promote good pain management before the Senate next year. We do need to do more to help the dying and those who suffer from chronic pain.

I believe that the mere threat of legislation would put the Drug Enforcement Administration into such an intrusive role that physicians, pharmacists, and other health providers would be reluctant to use these medications and future medications that promote pain management, comfort care, and hospice care. The mere threat of this legislation would be a real setback to the kind of health care services that the vast majority of Americans want to see expanded.

Certainly Americans can have differences of opinion on the issue of assisted suicide. I voted against our ballot measure once. I voted for the repeal of it the second time. I voted against Federal funding of assisted suicide. My reservations with respect to this topic are clear. But I think it is wrong for the Federal Government to butt in and override the voters of my State, on a matter that has historically been left to the States. It is especially wrong to do it in a way that is going to allow the Federal Government, particularly through the Drug Enforcement Administration, to play such an intrusive role that doctors, pharmacists, and other health providers will feel uncomfortable and reluctant to assist their patients who are suffering chronic and extraordinary pain.

We have heard reports in Oregon from hospices where doctors have been reluctant to prescribe needed amounts of pain medication because they were

frightened about the implications of being visited by a Government agency that would second-guess them.

I am very pleased that the Nickles legislation will not be included in the comprehensive spending bill. I intend to remain vigilant throughout the remaining hours of the negotiations. I wanted to come to the floor this afternoon to talk about why this issue is so important not to just the people of my State, but to the people of this country.

Finally, I am under no illusion that there will not be further discussions on the floor of the U.S. Senate about this topic. I know that the Senator from Oklahoma feels very strongly and sincerely about this issue. I know that there will be an effort to bring forward that proposal, and others like it, next year. I am aware that there are a number of Members of the U.S. Senate who would be willing to see Oregon's law set aside.

I ask all of my colleagues to think just for a few moments over the next few months about their reaction if their State passed a law on a matter that the States have historically led on, and then a Member of the U.S. Senate sought to step in and lay that aside. That is, in effect, what some in the U.S. Senate are trying to tell the people of Oregon. I think that is a mistake. I think that Senators who would be willing to toss aside a vote of the people of Oregon ought to think about the implications of the precedent they will be setting that will have their voters and the popular will of their States set aside if this Senate, in the future, tosses aside the Oregon law.

There is a better way. The better way is the approach that Senator MACK, Senator SMITH and Members of the House, such as Congresswoman DARLENE HOOLEY, and I are talking about. The better way is to say that there will be differences of opinion in our country about assisted suicide, but let us come together on that broad swath of policy that we all can agree on—which is to promote better hospice care, pain management, and comfort care in the use of advanced directives.

Many of these services in many of our communities are utilized very rarely. So there is much we can do that will bring our citizens together, that will help us improve the conditions of our patients, reduce their suffering, without setting a dangerous precedent of overriding a law passed by the voters of my State that could redound to the detriment of other States and our citizens.

Mr. President, I thank the negotiators who are dealing with the omnibus appropriations bill. I am pleased that it was not necessary for me to speak at length on the omnibus appropriations bill. Our voice will be heard when we are challenged in Oregon. We will be heard each time our rights are challenged.

I will conclude my remarks. I see the Senator from Oklahoma here. He has been very gracious to this Senator in terms of discussing this matter and keeping me apprised of his intentions. We do have a difference of opinion on this issue and, at the same time, he has made it clear that he wants to work with this Senator, Senator MACK, and others, on a variety of issues that we can agree on relating to pain management. I know that we will be back on this Senate floor debating this topic in the future. But I want the Senator from Oklahoma to know that not only do I appreciate his courtesy in keeping me apprised of his intentions, but of my desire to work with him on a variety of issues relating to this topic where I think we can agree.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senator from Oklahoma might speak, and that at the conclusion of his remarks, I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

USING FEDERALLY CONTROLLED DRUGS FOR ASSISTED SUICIDE

Mr. NICKLES. Mr. President, I thank my colleague from Texas. I want to make a couple of comments in regard to the legislation that my colleague and friend, Senator WYDEN, alluded to dealing with assisted suicide.

Mr. President, I introduced legislation to correct a mistake that Attorney General Reno made in June of this year when she overruled the Drug Enforcement Act and its interpretation that controlled substances could not be used for assisted suicide.

Let me make sure that everybody understands the picture of this. The Controlled Substance Act is a Federal law. It is not a State law; it is a Federal law. It is a Federal law that controls very strong drugs—drugs that are illegal, drugs that can kill, drugs that are very addictive. They are controlled by Federal law. They can't be used except for legitimate medical purposes. That is what is defined in the Federal law in the Controlled Substance Act. They can only be used for legitimate medical purposes.

What constitutes a legitimate medical purpose? History has it that a legitimate medical purpose is, or can be, the alleviation of pain, to reduce pain, give comfort. It can be used for palliative care, but it is never—let me restate this—the Drug Enforcement Agency, which is in charge of enforcing this act, has never been used for assisted suicide. These drugs are strong drugs. If they are abused, used in heavy quantities, they kill people.

Unfortunately, some people want to use these drugs for assisted suicide. The Drug Enforcement Administrator, Mr. Constantine, a year ago, in November, wrote a letter to Congress and said that assisted suicide is not a legitimate medical purpose.

Mr. President, I ask unanimous consent that at the conclusion of my statement a letter from Mr. Constantine, Administrator of the Drug Enforcement Agency, be printed in the RECORD.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. NICKLES. Mr. President, the letter says they have reviewed it, and assisted suicide is never a legitimate medical purpose. These drugs can only be used for a legitimate medical purpose.

The State of Oregon, by referendum, passed a law that says assisted suicide is OK. They had a couple of them. The State of Oregon can do what it wants, but that doesn't overturn Federal law. What if the State of Massachusetts said they were going to legalize heroin? That is a controlled substance. Does that make it legal? No. There is a reason why we have a Federal law dealing with these very strong drugs, and it is called the Controlled Substance Act. And just because one State has a referendum or petition or the legislature passes a bill, it doesn't overturn Federal drug law, period.

For some unknown reason, the Attorney General—and I still don't know why—gave one of the most absurd rulings in June, where she said, well, we still believe we have control of the Federal Controlled Substance Act, so assisted suicide is illegal for some States, except for those which have legalized it. Now, that is an absurd conclusion. I guess if you take that to its conclusion, any State can do whatever they want on these substances. That is absurd. Why have a Federal law? Why have a Federal law in any way, shape, or form.

Now we have several States—and Oregon is the pioneer in this—like Michigan and other States that are saying they want assisted suicide. I just beg to differ. I don't think that should be the purpose. The whole purpose of these drugs is to alleviate pain. For those organizations that say we are not sure if we support this bill because maybe it would have a chilling impact on pain, that is false. They haven't read the bill. If they want us to help write it in a stronger way—we put very clearly in the bill that these drugs can be used to alleviate pain. We encourage use of these drugs for the alleviation of pain, for palliative care. But they are licensed by the Federal Government and should not be used to kill people. They should not be used for assisted suicide. These are federally controlled drugs.

Are we going to give that kind of license? What happens if somebody does it? Tradition has it and history has had it that the Drug Enforcement Agency, if somebody misuses these drugs—one, they have to get a Federal license to distribute the drug, and if they misuse them, they lose that license. I think it is only appropriate to do so. They