

(3) The physical safety of visiting heads of foreign states and foreign governments is also a matter of paramount importance. The assassination of such a person while on American soil could have calamitous consequences for our foreign relations and national security.

(4) Given these grave concerns, Congress has provided for the Secret Service to protect the President and those in direct line of the Presidency, and has directed that these officials may not waive such protection. Congress has also provided for the Secret Service to protect visiting heads of foreign states and foreign governments.

(5) The protective strategy of the Secret Service depends critically on the ability of its personnel to maintain close and unremitting physical proximity to the protectee.

(6) Secret Service personnel must remain at the side of the protectee on occasions of confidential conversations and, as a result, may overhear top secret discussions, diplomatic exchanges, sensitive conversations and matters of personal privacy.

(7) The necessary level of proximity can be maintained only in an atmosphere of complete trust and confidence between the protectee and his or her protectors.

(8) If a protectee has reason to doubt the confidentiality of actions or conversations taken in sight or hearing of Secret Service personnel, the protectee may seek to push the protective envelope away or undermine it to the point at which it could no longer be fully effective.

(9) The possibility that Secret Service personnel might be compelled to testify against their protectees could induce foreign nations to refuse Secret Service protection in future state visits, making it impossible for the Secret Service to fulfill its important statutory mission of protecting the life and safety of foreign dignitaries.

(10) A privilege protecting information acquired by Secret Service personnel while performing their protective function in physical proximity to a protectee will preserve the security of the protectee by lessening the incentive of the protectee to distance Secret Service personnel in situations in which there is some risk to the safety of the protectee.

(11) Recognition of a protective function privilege for the President and those in direct line of the Presidency, and for visiting heads of foreign states and foreign governments, will promote sufficiently important interests to outweigh the need for probative evidence.

(12) Because Secret Service personnel retain law enforcement responsibility even while engaged in their protective function, the privilege must be subject to a crime/treason exception.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the relationship of trust and confidence between Secret Service personnel and certain protected officials that is essential to the ability of the Secret Service to protect these officials, and the Nation, from the risk of assassination; and

(2) to ensure that Secret Service personnel are not precluded from testifying in a criminal investigation or prosecution about unlawful activity committed within their view or hearing.

SEC. 3. ESTABLISHMENT OF PROTECTIVE FUNCTION PRIVILEGE.

(a) ADMISSIBILITY OF INFORMATION ACQUIRED BY SECRET SERVICE PERSONNEL WHILE PERFORMING THEIR PROTECTIVE FUNCTION.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

“§ 3056A. Testimony by Secret Service personnel; protective function privilege

“(a) DEFINITIONS.—In this section:

“(I) PROTECTEE.—The term ‘protectee’ means—

“(A) the President;

“(B) the Vice President (or other officer next in the order of succession to the Office of President);

“(C) the President-elect;

“(D) the Vice President-elect; and

“(E) visiting heads of foreign states or foreign governments who, at the time and place concerned, are being provided protection by the United States Secret Service.

“(2) SECRET SERVICE PERSONNEL.—The term ‘Secret Service personnel’ means any officer or agent of the United States Secret Service.

“(b) GENERAL RULE OF PRIVILEGE.—Subject to subsection (c), testimony by Secret Service personnel or former Secret Service personnel regarding information affecting a protectee that was acquired during the performance of a protective function in physical proximity to the protectee shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof.

“(c) EXCEPTIONS.—There is no privilege under this section—

“(1) with respect to information that, at the time the information was acquired by Secret Service personnel, was sufficient to provide reasonable grounds to believe that a crime had been, was being, or would be committed; or

“(2) if the privilege is waived by the protectee or the legal representative of a protectee or deceased protectee.

“(d) CONCURRENT PRIVILEGES.—The proximity of Secret Service personnel to a protectee engaged in a privileged communication with another shall not, by itself, defeat an otherwise valid claim of privilege.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3056 the following:

“3056A. Testimony by Secret Service personnel; protective function privilege.”.

SEC. 4. APPLICATION.

This Act and the amendments made by this Act shall apply to any proceeding commenced on or after the date of enactment of this Act.

SUMMARY OF THE SECRET SERVICE PROTECTIVE PRIVILEGE ACT OF 1999

The proposed legislation would add a new section 2056A to title 18, United States Code, establishing a protective function privilege. There are four subsections.

Subsection (a) establishes the definitions used in the section.

Subsection (b) states the general rule that testimony by Secret Service personnel or former Secret Service personnel regarding information affecting a protectee that was acquired during the performance of a protective function in physical proximity to the protectee shall not be received in evidence or otherwise disclosed. The privilege operates only with respect to the President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, the Vice President-elect,

and visiting heads of foreign states or foreign governments.

Subsection (c) creates a crime-fraud exception to the privilege, which applies with respect to information that, at the time it was acquired by Secret Service personnel, was sufficient to provide reasonable grounds to believe that a crime had been, was being, or would be committed. This subsection also provides that the privilege may be waived by a protectee or by his or her legal representative.

Subsection (d) provides that the proximity of Secret Service personnel to a protectee shall not, by itself, defeat an otherwise valid claim of privilege. This addresses the situation in which Secret Service personnel overhear confidential communications between the protectee and, say, the protectee’s spouse or attorney.

By Mr. STEVENS (for himself, Mr. INOUE, Mr. LOTT, Mrs. FEINSTEIN, Mr. AKAKA, and Mr. GRAHAM):

S. 1361. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL DISASTER PROTECTION AND INSURANCE ACT OF 1999

Mr. STEVENS. Mr. President, today I am introducing the Natural Disaster Protection and Insurance Act of 1999. This bill will provide the Nation with a way of dealing with major national disasters. As many of my colleagues are aware I have maintained an interest in this area for some time. Over the last decade we have witnessed natural disasters and the devastating effect that they can have on our property, economy and quality of life.

Damages from Hurricane Andrew resulted in the insolvency of insurance companies and a lack of confidence within the industry to deal with similar catastrophes in the future. Major hurricane risk is increasing. Some scientists predict that the next decade will bring more favorable conditions for a major hurricane hitting the U.S. than existed in the period leading up to Hurricane Andrew.

Over half of the population of the United States resides within the coastal zone (approximately 300 km centered at the coastline). Infrastructure and population along our coast is growing rapidly and so our vulnerability to hurricanes is increasing dramatically.

My Home State of Alaska has had at least nine major earthquakes of 7.4 magnitude or more on the Richter scale. Alaska’s 1964 Good Friday Earthquake was one of the world’s most powerful, registering, a magnitude of 9.2 on the Richter scale.

The Alaska quake of 1964 destroyed the economic basis of entire communities. Whole fishing fleets, harbors,

and canneries were lost. The shaking caused tidal waves. Petroleum storage tanks ruptured and the contents caught fire. Burning oil ran into the bay and was carried to the waterfront by large waves. These waves of fire destroyed docks, piers, and small-boat harbors. Total property damage was \$311 million in 1964 dollars. Experts predict that a quake this size in the lower 48 would kill thousands and cost up to \$200 billion.

According to Michael J. Armstrong, associate director, mitigation directorate of the Federal Emergency Management Agency:

Earthquakes represent the largest single potential for casualties and damage from a natural hazard facing this country. They represent a national threat, as all but seven States in the U.S. are at some level of risk.

In our most recent earthquake disaster, Northridge, (CA), a moderate earthquake centered on the fringe of a major metropolitan area caused an estimated \$40 billion in damage. A large magnitude earthquake located under one of several urban regions in the United States could cause thousands of casualties and losses approaching \$200 billion.

Accordingly, reducing earthquake losses is a matter of national concern—recent findings show a significantly increased potential for damaging earthquake in southern California, and in northern California on the Hayward Fault. Studies also show higher potential earthquakes for the Pacific Northwest and Coastal South Carolina. This is in addition to areas of earthquake risk that have already been identified, such as the New Madrid Fault Zone in the Central U.S. and Wasatch Front in Utah.

Before 1989, the United States had never experienced a disaster costing more than \$1 billion in insured losses. Since then, we have had nine disasters that have cost more than \$1 billion.

Today, Senators INOUYE, LOTT, BOB GRAHAM, FEINSTEIN, AKAKA, and I introduce this bill to reduce the cost to the Federal Government of earthquakes, hurricanes, and other natural disasters.

First, the bill will reduce Federal costs by expanding the use and availability of private insurance.

Second, the bill will provide incentives to improve State disaster strategic planning.

And, third, the bill will create a national, privately funded catastrophic insurance pool to shoulder the risk of very large disasters.

Mr. President, the more private insurance individuals buy, the less disaster relief Federal taxpayers must pay. For instance, if this bill had been in place before Hurricane Andrew and California's Northridge Earthquake, I am advised that it could have reduced Federal costs by at least \$5 billion.

I ask my colleagues to join me and the cosponsors in supporting this bill. Because major natural catastrophes are increasingly common and costly for U.S. citizens, we must be willing to make a commitment now to prepare for these future events in advance.

Mr. GRAHAM. Mr. President, I rise to join the distinguished chairman and

Ranking Member of the Senate Appropriations Committee in introducing legislation that creates a federal complement to efforts of state governments, local communities, and the private sector to make future disasters cost less.

Mr. President, I am a life-long Floridian. When children grow up in Florida they learn, usually from first hand experience, to expect devastating storm activity in their communities. Hurricane Season is an annual event. Florida suffers from often violent summer storms, tornadoes, and wildfires. With all of this natural disaster activity in my state alone, you can image that the costs of paying for the damages incurred by these events is quite staggering. These costs require the immediate action of Congress.

In August of 1992, Hurricane Andrew roared ashore in the middle of the night and devastated much of South Florida. The total costs of cleanup and rebuilding from Hurricane Andrew was \$36 billion. This includes nearly \$16 billion in total insured losses, of which \$12 billion were homeowner policies. After Andrew 10 private insurance companies in the State of Florida were rendered insolvent and had to leave the state. Nearly 960,000 insurance policies were canceled or not renewed.

There may be more Hurricane Andrew's in our future. The National Weather Service has predicted 1999 will be an extremely active hurricane season. They have estimated that up to 14 named storms will develop in the Atlantic Ocean, 10 of those are expected to become hurricanes.

The rising costs associated with events such as Hurricane Andrew have also demonstrated that insurers face the risk of insolvency if they are overly concentrated in vulnerable regions of our country. Since 1992, insurers have widely avoided writing policies in disaster prone areas of Florida. A congressional report on this subject revealed that the total supply of available reinsurance is approximately \$7 billion. This is only 10 percent of the potential loss which might occur from a worst case natural disaster scenario.

Companies that provide insurance of last resort have entered disaster-vulnerable insurance markets and filled this vacuum. Generally, these products of last resort provide less coverage than a commercial property insurance policy, but at much greater price. In Florida, such a policy averages in excess of 500 percent as compared to a commercial policy.

State Insurance Commissions and state legislatures have literally created rainy day funds in an attempt to prevent an insurance availability crisis. This includes: Florida Catastrophe Reinsurance Fund, the California Earthquake Authority, and the Hawaii Hurricane Relief Fund. In my State of Florida, we have also created programs to provide insurance for those who cannot purchase insurance from any private source because of the risk in-

volved including the Florida Joint Underwriters Associations, and the expansion of the Florida Windstorm Underwriters Association.

Our recent experience tells us that it is time for Congress to help reverse the rising costs of natural disasters. The Natural Disaster Protection and Insurance Act of 1999 is a step in the right direction. This legislation directs the Secretary of the Treasury to carry out a program to make reinsurance available for purchase by eligible state programs, private insurers and reinsurers by way of auctions. It provides a backstop for state-operated insurance programs, and complements existing insurance industry efforts without encroaching upon the private sector.

This initiative appropriately allows state and industry leaders to assist in addressing local needs. Specifically,

Contractual coverage would include residential property losses resulting from disasters.

The Treasury Department would be prohibited from offering any coverage that competes with or replaces private insurers.

A portion of the premiums would go to a mitigation fund to support state level emergency preparedness.

This initiative is a bipartisan and bicameral effort. My Florida colleague, Congressman BILL MCCOLLUM, has joined Representative LAZIO to lead this effort in the House of Representatives. We have been working closely with the Administration, affected state and local level organizations, and private realtors and insurers. We all agree that the insurance industry cannot endure the ravage of large scale natural disasters alone. Action at the federal level is needed to continue insuring individual homeowners and business in areas vulnerable to catastrophe.

Mr. President, we have an opportunity today to continue the working partnership between the federal government, states, local communities and the private sector. The consequences of insurance shortages and exposure to known hazards must be addressed immediately. I encourage my colleagues to support this initiative.

ADDITIONAL COSPONSORS

S. 57

At the request of Ms. MIKULSKI, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 57, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

S. 211

At the request of Mr. MOYNIHAN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 211, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-

provided educational assistance programs, and for other purposes.

S. 253

At the request of Mr. MURKOWSKI, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 253, a bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

S. 335

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 335, a bill to amend chapter 30 of title 39, United States Code, to provide for the nonavailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

At the request of Ms. COLLINS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 345, *supra*.

S. 429

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 429, a bill to designate the legal public holiday of "Washington's Birthday" as "Presidents' Day" in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 459

At the request of Mr. BREAUX, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 632, a bill to provide as-

sistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 717

At the request of Ms. MIKULSKI, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 717, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds \$1,200, adjusted for inflation.

S. 821

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 821, a bill to provide for the collection of data on traffic stops.

S. 836

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 836, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services.

S. 861

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 861, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 875

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. BROWNBANK) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

S. 877

At the request of Mr. BROWNBANK, the names of the Senator from Montana (Mr. BURNS) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 877, a bill to encourage the provision of advanced service, and for other purposes.

S. 879

At the request of Mr. CONRAD, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements.

S. 892

At the request of Mr. HATCH, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 892, a bill to amend

the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing income.

S. 926

At the request of Mr. DODD, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 926, a bill to provide the people of Cuba with access to food and medicines from the United States, and for other purposes.

S. 984

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 984, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources.

S. 1006

At the request of Mr. TORRICELLI, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1006, a bill to end the use of conventional steel-jawed leghold traps on animals in the United States.

S. 1016

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1016, a bill to provide collective bargaining for rights for public safety officers employed by States or their political subdivisions.

S. 1025

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1025, a bill to amend title XVIII of the Social Security Act to ensure the proper payment of approved nursing and allied health education programs under the medicare program.

S. 1038

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1038, a bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap.

S. 1053

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1087

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1087, a bill to amend title 38, United States Code, to add bronchioloalveolar carcinoma to the list of diseases presumed to be service-connected for certain radiation-exposed veterans.

S. 1091

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1091, a bill to amend the

Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1144

At the request of Mr. VOINOVICH, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

At the request of Mr. VOINOVICH, the name of the Senator from New York (Mr. SCHUMER) was withdrawn as a cosponsor of S. 1144, *supra*.

S. 1166

At the request of Mr. NICKLES, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1166, a bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation.

S. 1216

At the request of Mr. TORRICELLI, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1216, a bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes.

S. 1232

At the request of Mr. COCHRAN, the names of the Senator from Tennessee (Mr. THOMPSON), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Virginia (Mr. WARNER), the Senator from Maryland (Mr. SARBANES), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1232, a bill to provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.

S. 1266

At the request of Mr. GORTON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1266, a bill to allow a State to combine certain funds to improve the academic achievement of all its students.

S. 1274

At the request of Mr. GRAMS, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1274, a bill to amend the Internal Revenue Code of 1986 to increase the accessibility to and affordability of health care, and for other purposes.

S. 1277

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1293

At the request of Mr. COCHRAN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1293, a bill to establish a Con-

gressional Recognition for Excellence in Arts Education Board.

S. 1296

At the request of Mr. McCONNELL, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1296, a bill to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System.

S. 1317

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1317, a bill to reauthorize the Welfare-To-Work program to provide additional resources and flexibility to improve the administration of the program.

S. 1332

At the request of Mr. BAYH, the names of the Senator from Oregon (Mr. SMITH), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1332, a bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

SENATE RESOLUTION 99

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Resolution 99, a resolution designating November 20, 1999, as "National Survivors for Prevention of Suicide Day."

AMENDMENTS SUBMITTED

PATIENTS' BILL OF RIGHTS ACT

NICKLES (AND OTHERS) AMENDMENT NO. 1236

Mr. NICKLES (for himself, Mr. GRAMM, and Ms. COLLINS) proposed an amendment to the bill (S. 1344) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; as follows:

At the appropriate place, insert the following:

SEC. _____. EXEMPTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the provisions of this Act shall not apply with respect to a group health plan (or health insurance coverage offered in connection with the group health plan) if the provisions of this Act for a plan year during which this Act is fully implemented result in—

(1) a greater than 1 percent increase in the cost of the group health plan's premiums for the plan year, as determined under subsection (b); or

(2) a decrease, in the plan year, of 100,000 or more in the number of individuals in the United States with private health insurance, as determined under subsection (c).

(b) EXEMPTION FOR INCREASED COST.—For purposes of subsection (a)(1), if an actuary certified in accordance with generally recognized standards of actuarial practice by a member of the American Academy of Actuaries or by another individual whom the Secretary has determined to have an equivalent level of training and expertise certifies that the application of this Act to a group health plan (or health insurance coverage offered in connection with the group health plan) will result in the increase described in subsection (a)(1) for a plan year during which this Act is fully implemented, the provisions of this Act shall not apply with respect to the group health plan (or the coverage).

(c) EXEMPTION FOR DECREASED NUMBER OF INSURED PERSONS.—For purposes of subsection (a)(2), unless the Administrator of the Health Care Financing Administration certifies, on the basis of projections by the National Association of Insurance Commissioners, that the provisions of this Act will not result in the decrease described in subsection (a)(2) for a plan year during which this Act is fully implemented, the provisions of this Act shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan).

ROBB (AND OTHERS) AMENDMENT NO. 1237

Mr. KENNEDY (for Mr. ROBB (for himself, Mrs. MURRAY, Mrs. BOXER, Ms. MIKULSKI, Mr. KENNEDY, Mr. REID, Mr. DURBIN, Mr. FEINGOLD, Mrs. LINCOLN, Mr. DASCHLE, Mr. BYRD, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. BRYAN, and Mr. HARKIN)) proposed an amendment to amendment No. 1236 proposed by Mr. NICKLES to the bill, S. 1344, *supra*; as follows:

In the amendment, strike all after the first word and insert the following:

STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT AND ACCESS TO APPROPRIATE OBSTETRICAL AND GYNECOLOGICAL CARE

(a) BREAST CANCER TREATMENT.

(1) INPATIENT CARE.—A group health plan, or a health insurance issuer in connection with group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, and the patient, to be medically appropriate following—

(A) a mastectomy;
(B) a lumpectomy; or
(C) a lymph node dissection for the treatment of breast cancer.

(2) PROHIBITIONS.—A group health plan, or a health insurance issuer in connection with group health insurance coverage, may not—

(A) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan or coverage, solely for the purpose of avoiding the requirements of this subsection;

(B) provide monetary payments or rebates to patients to encourage such patients to accept less than the minimum protections available under this subsection;

(C) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant, beneficiary or enrollee in accordance with this subsection;

(D) provide incentives (monetary or otherwise) to an attending provider to induce such