

laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) **ELECTION OF STATE REGARDING NON-APPLICABILITY.**—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

- (1) citing the authority of this subsection;
- (2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and
- (3) containing no other provisions.

**SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.**

(a) **LIABILITY PROTECTION FOR VOLUNTEERS.**—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

- (A) possess an operator's license; or
- (B) maintain insurance.

(b) **CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.**—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) **NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.**—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) **EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.**—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for in-

dividuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) **LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.**—

(1) **GENERAL RULE.**—Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) **CONSTRUCTION.**—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) **EXCEPTIONS TO LIMITATIONS ON LIABILITY.**—

(1) **IN GENERAL.**—The limitations on the liability of a volunteer under this Act shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

**SEC. 5. LIABILITY FOR NONECONOMIC LOSS.**

(a) **GENERAL RULE.**—In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) **AMOUNT OF LIABILITY.**—

(1) **IN GENERAL.**—Each defendant who is a volunteer shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) **PERCENTAGE OF RESPONSIBILITY.**—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

**SEC. 6. DEFINITIONS.**

For purposes of this Act:

(1) **ECONOMIC LOSS.**—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) **HARM.**—The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) **NONECONOMIC LOSSES.**—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) **STATE.**—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) **VOLUNTEER.**—The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of \$500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

**SEC. 7. EFFECTIVE DATE.**

(a) **IN GENERAL.**—This Act shall take effect 90 days after the date of enactment of this Act.

(b) **APPLICATION.**—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

**NOTICES OF HEARINGS**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. MURKOWSKI. Mr. President, I would like to announce for the benefit of Members and the public that the time that the Committee on Energy and Natural Resources has scheduled for a hearing to receive testimony on S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997 has been changed.

The hearing will now take place on Monday, May 5, 1997, at 10:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record

should contact James Beirne, senior counsel to the committee or Betty Nevitt, staff assistant, or write the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, May 8, 1997, at 9:30 a.m. to consider revisions to Title 44/GPO.

For further information concerning this hearing, please contact Eric Peterson.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 417, a bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002, S. 416, a bill to amend the Energy Policy and Conservation Act to extend the expiration dates of existing authorities and enhance U.S. participation in the energy emergency program of the International Energy Agency, S. 186, a bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes, and the energy security of the United States of America.

The hearing will take place on Tuesday, May 13, 1997, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker, counsel or Betty Nevitt, staff assistant.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 1, 1997, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 1, for purposes of conducting a hearing before the Subcommittee on National Parks, Historic Preservation, & Recreation which is scheduled to begin at 2 p.m. The purpose of this hearing is to consider S. 357, a bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 2 p.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, May 1, at 10 a.m. for a hearing on DOD at risk.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, May 1, 1997 at 2 p.m. for a hearing on "National Missile Defense and the ABM Treaty".

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

COMMITTEE ON THE JUDICIARY

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 1, 1997, at 10 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Public Health and Safety Subcommittee hearing on "Biomedical Research priorities: Who Should Decide?" during the session of the Senate on Thursday, May 1, 1997, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND REGULATORY RELIEF

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 1, 1997, to conduct an oversight hearing on the Office of the Comptroller of the Currency.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Sub-

committee on Immigration, of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 11:30 a.m. to hold a hearing on "Immigration and Naturalization Service Oversight: The Criminal Record Verification Process for Citizenship Applicants."

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON READINESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, May 1, 1997, in open session, to receive testimony on Department of Defense depot maintenance privatization initiatives in review of S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

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

ADDITIONAL STATEMENTS

TRIBUTE TO MIDDLEBURY COLLEGE

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Middlebury College and its student production of "The Last Supper Restoration." This group of fine arts students will be one of eight participating in this year's American College Theater Festival at the John F. Kennedy Center for Performing Arts from April 14 to April 22, 1997. The production was chosen from among 900 presented on campuses throughout the United States in 1996.

The student playwright, Michael Kanin, was presented with the National Student Playwriting Award and has been recognized for his tremendous efforts by the Association for Theatre in Higher Education. The students' work is in the finest tradition of Vermont and truly represent the creative spirit of our Green Mountain State.

This accomplishment is testimony to the outstanding education and diverse opportunities provided by a true center of excellence, Middlebury College. Once again, I would like to extend my best wishes and congratulations to the Middlebury College thespians.●

TRIBUTE TO ELIZABETH O'DONNELL

• Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to a very special