mammography testing. Further, this legislation is assuring women that only physicians adequately trained in this medical area are interpreting mammograms.

New to this legislation are some additional requirements which seek to further assure women that their mammogram service produces the most accurate and timely detection of any irregularities. Mammography service providers will now be required to retain women's mammogram records so that an accurate medical history is maintained. Reauthorization of these quality standards will also ensure that patients are notified about substandard mammography facilities.

I wish to commend Senator MIKULSKI for her leadership on this crucial legislation. Again, it is my pleasure to join my colleagues in ensuring that quality mammography service is readily available, and I urge the Senate to act quickly and approve this critically important measure for American women.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 538. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District and for other purposes; to the Committee on Energy and Natural Resources.

THE BURLEY IRRIGATION DISTRICT TRANSFER ACT

● Mr. CRAIG. Mr. President, I am today introducing a bill to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka irrigation project to the Burley Irrigation District. The introduction of this legislation results from a hearing I held in the Senate Energy Committee in the past Congress and is nearly identical to S. 1291 from that Congress. I am introducing this project-specific legislation because it is obvious to me a general transfer bill is not workable; each reclamation project has unique qualities, and projects should be addressed individually or in distinct groupings.

The Reclamation Act of 1902 was part of the history of Federal public land laws designed to transfer lands out of Federal ownership and to settle this Nation. The origins of that policy predate the Constitution and derive from the early debates that led to the Northwest Ordinance of 1787. The particular needs and circumstances of the arid and semiarid lands west of the 100th meridian led to various proposals to reclaim the lands, including the Desert Land Act and the Carey Act. In his State of the Union Message of 1901, President Theodore Roosevelt finally called for the Federal Government to intervene to develop the reservoirs and works necessary to accomplish such irrigation. The reclamation program was enormously successful. It grew from the irrigation program contemplated by one President Roosevelt to the massive works constructed four decades later by the second President Roosevelt. For those of us in the Northwest, there is a very personal meaning to a line from Woody Guthrie's song about the Columbia that goes: ''your power is turning our darkness to dawn, so roll on Columbia, roll on.''

If what is known now had been known then, some projects may have been constructed differently. However, that is not the question we have before us. The central question is whether and to what extent the Federal Government should seek to transfer the title and responsibility for these projects. Has the Federal mission been accomplished?

The best transfer case would be the single purpose irrigation or municipal and industrial [M&I] system that is fully repaid, operation has long since been transferred, and the water rights are held privately. That is the case with the Burley Irrigation District transfer.

The transfer of title is not a new idea. Authority to transfer title to the All American Canal is contained in section 7 of the Boulder Canyon Project Act of 1928. General authority is contained in the 1955 Distribution Systems Loan Act. Recently, Congress passed legislation dealing with Elephant Butte and Vermejo.

The Burley Irrigation District is part of the Minidoka project that was built under the authorization of the 1902. Reclamation Act. By a contract executed in 1926, the District assumed the operation and maintenance of the system.

All construction contracts and costs for the canals system, pumping plants, power house, transmission lines and other improvements have been paid in full. Contracts for storage space at Minidoka, American Falls, and Palisades reservoirs have been paid in full, along with all maintenance fees. This project is a perfect example of the Federal Government maintaining only a bare title, and that title should now be transferred to the project recipients who have paid for the facilities and the rights of the Burley Irrigation District.●

By Mr. BIDEN (for himself, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 540. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the Medicare Program; to the Committee on Finance.

THE MEDICARE MAMMOGRAPHY SCREENING EXPANSION ACT

● Mr. BIDEN. Mr. President, there is no doubt a lot of women in their forties who are awfully confused these days about whether they should receive a regular mammogram to test for breast cancer. Over the last several years—and especially over the last couple of months—the debate in the scientific community and the conflicting scientific studies have not painted a very clear picture for younger women.

But, what is perfectly clear—what is not in dispute—is that older women should receive regular mammograms. Mammograms save lives. And, the scientific studies confirm it. If all women over 50 received regular mammograms, breast cancer mortality could be reduced by one-third. The recommended screening guidelines reflect this, no matter what group's guidelines you read. The American Cancer Society, the American College of Obstetricians and Gynecologists, the American Medical Association, the American Academy of Family Physicians, and the American College of Physicians all recommend that women over 50 receive annual mammograms.

Now, here's the problem. Women 65 and over have Medicare as their health insurance. The guidelines tell them—and their doctors are telling them—to get a mammogram once a year. But, Medicare pays for mammograms only once every 2 years. This means that an elderly woman must pay the cost of every other mammogram herself—or go without a mammogram every other year. And, even when Medicare pays for the mammogram, the woman is still responsible for at least 20 percent of the cost.

The result, Mr. President, is that too many women are following Medicare's payment rules—and not getting tested—rather than following the scientific guidelines—and being tested.

Two years ago, a study was published in the New England Journal of Medicine. It found that only 14.4 percent of women without Medicare supplemental insurance—that is, women who do not have, on top of Medicare, private insurance that may cover mammograms on an annual basis—only 14.4 percent of those women received even a mammogram once every 2 years, let alone annually. Even among those women with supplemental insurance, less than half had a mammogram over the course of 2 years. The study concluded that a woman's inability to pay a share of the costs for mammograms ''is an obstacle to the effective mass screening of older women for breast cancer.'' And, I would add, an obstacle to saving thousands of lives.

So, Mr. President, today I am introducing the Medicare Mammography Screening Expansion Act. This bill does two things. First, it would cover mammograms under Medicare once every year, as recommended by the guidelines, instead of once every 2 years, which is now the law. Second, it would eliminate the 20-percent copayment that is currently charged to women when they receive a mammogram, so that women are not discouraged from obtaining this important preventive measure because of the cost. I should note that eliminating the copayment is not unprecedented. Medicare already does not charge copayments for flu shots and most clinical laboratory tests.

Mr. President, we know that mammograms save lives. Yet, current Medicare policy creates barriers that are

preventing women from seeking this simple, life-saving procedure. I urge my colleagues to join me in making mammography screenings more available and more affordable for American women.●

By Mr. ALLARD:

S. 541. A bill to provide for an exchange of lands with the city of Greeley, CO, and the Water Supply and Storage Co. to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROCKWELL RANCH LAND TRANSFER ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing legislation that would provide for a land exchange between the city of Greeley, the Water Supply and Storage Co., and the Forest Service. This legislation was introduced last year and was passed by the House of Representatives as part of the Presidio package. It's my hope that we can pass this legislation and have it signed into law before the session ends.

The city of Greeley and Water Supply and Storage operate eight reservoirs in the Arapaho-Roosevelt National Forest. Because of the location of the reservoirs they are operated under Forest Service supervision. This supervision has at times been controversial due to disputes concerning whether being located on Forest Service property allows them to divert water in the national forest for purposes other than the benefit of the owners. The legislation I am introducing would benefit Greeley and Water Supply and Storage by allowing them to protect these significant investments. As an additional benefit this legislation would put an end to a bitter dispute between Greeley and the Forest Service. The national forest would also greatly benefit from this legislation. It would receive 708 acres of inholdings within the forest and the wilderness area. This land has been sought by the Forest Service for some time and this exchange would finally allow them to consolidate valuable resources in Colorado.

I offered this same bill last year when I was in the House of Representatives. Unfortunately, it was caught up in election year politics, specifically, my election. This year I want to put that behind, and work toward passing this legislation as negotiated over the past several years with Greeley, and with Water Supply and Storage, and with the Forest Service.

I believe that as introduced this legislation strikes a balance between protecting the rights of my constituents in Greeley and Thornton and protecting the environment.

As currently drafted, Greeley and Thornton have not only agreed to transfer their inholdings, they have also agreed to continue to participate in negotiations with a variety of governmental organizations and environmental groups to designate habitat for the whooping crane. Furthermore, they have agreed to an improved stream flow in the Poudre River as a condition of the exchange and since many westerners would rather part with blood than water, I think they've gone the extra mile.

This legislation is win/win for all involved. We should put all the politics behind us, pass the legislation, and move on to matters that are less easily resolved.

By Mr. COVERDELL (for himself, Mr. MCCONNELL, Mr. ABRAHAM, Mr. SANTORUM, and Mr. ASHCROFT):

S. 544. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; to the Committee on the Judiciary.

THE VOLUNTEER PROTECTION ACT OF 1997

Mr. COVERDELL. Mr. President, in just a few weeks, on April 27–29, the Presidents' Summit for America's Future will assemble in Philadelphia, cochaired by President Clinton and President Bush. This is an effort to mobilize millions of citizens and thousands of organizations to ensure a bright future for our youth and make effective citizen service an integral part of the American way of life. A number of leading corporations and service organizations have made specific commitments of resources and volunteers to achieve the summit's goal.

The leaders at the summit will issue a great call to action for Americans, asking them to volunteer their time and efforts in community service. This is in the best tradition of America. The thread of helping your neighbor and taking an active part of civic life runs all through the history of our Nation. It is woven deeply into the fabric of our communities. It is a tie that binds us together as a robust and healthy society.

Yet many who would heed that call to participate in the great tradition of volunteerism will not do so. Not because they lack the desire or the ability to help, but for fear of punitive litigation. In a recent Gallup study one in six volunteers reported withholding their services for fear of being sued. About 1 in 10 nonprofit groups report the resignation of a volunteer over litigation fears.

That is why I am today introducing the Volunteer Protection Act of 1997, a bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working for nonprofit organizations and governmental entities. Senators MCCONNELL, ABRAHAM, SANTORUM, and ASHCROFT have joined me as original cosponsors.

This act provides that no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by the volunteer's acts or omissions on behalf of the organization. To enjoy this protection, the volunteer must be acting within the scope of his or her responsibilities in the organization and must not cause harm by willful or criminal misconduct, gross negligence, or reckless misconduct.

In other words, this act provides volunteers liability protection for simple negligence only. It does not provide immunity from suit for misconduct that includes violent crimes, hate crimes, sex crimes, or civil rights violations. It does not apply where the defendant was under the influence of drugs or alcohol.

It is intended to protect volunteers who make a simple, honest mistake. The injured party will still have the recourse of suing the organization itself to be made whole. Nonprofit organizations will continue to have the duty to properly screen, train, and supervise their volunteers. The organization's liability is not affected. But we will free the volunteers from fear of crushing lawsuits for mistakes made while trying to do a good deed.

Federalism concerns arise whenever Congress takes up tort law. Our bill gives States flexibility to impose conditions and make exceptions to the granting of liability protection. It allows States to affirmatively opt out of this law for those cases where both the plaintiff and defendant are citizens of the State.

This bill requires clear and convincing evidence of gross negligence before punitive damages may be awarded against a volunteer, nonprofit organization, or governmental entity because of a volunteer's actions. It also establishes a rule of proportionate liability rather than joint and several liability in suits based on the action of a volunteer.

Mr. President, the Volunteer Protection Act will encourage the spirit of civic involvement and volunteerism that is so crucial to a healthy civil society and stronger communities. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Volunteer Protection Act of 1997''.

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them and the organizations they serve;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs

than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) reform efforts should respect the role of the States in the development of civil justice rules, but recognize the national Government's role.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to—

(1) volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity; and

(2) nonprofit organizations or governmental entities.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer, nonprofit organization, or governmental entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply 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; and

(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.

(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.—Except as provided under subsection (e), 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 volunteer was operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or vehicle owner to possess an operator's license or to maintain insurance.

(4) 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.

(5) 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 individuals 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 OF VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer, nonprofit organization, or governmental entity in an action brought for harm because of 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 State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—The limitations on the liability of a volunteer, nonprofit organization, or governmental entity under this section shall not apply to any misconduct that—

(1) 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;

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

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

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

(5) 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.

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, nonprofit organization, or governmental entity 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 each defendant who is a volunteer, nonprofit organization, or governmental entity for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the 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 under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

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 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.

Mr. MCCONNELL. Mr. President, volunteer service has become a high risk venture. Our ''sue happy'' legal culture has ensnared those selfless individuals who help worthy organizations and institutions through volunteer service. And, these lawsuits are proof that no good deed goes unpunished.

In order to relieve volunteers from this unnecessary and unfair burden of liability, I am pleased to join in the introduction of the Volunteer Protection Act.

The litigation craze is hurting the spirit of voluntarism that is an integral part of American society. From school chaperones to Girl Scout and Boy Scout troop leaders to unpaid rural doctors and nursing home aides, volunteers perform valuable services. And, these volunteers are being dragged into court and needlessly and unfairly sued. The end result? Too many people pointing fingers and too few offering a helping hand.

So, this bill creates immunity from lawsuits for those volunteers who act within the scope of their responsibilities, who are properly licensed or certified where necessary, and who do not act in a willful, criminal or grossly negligent fashion.

The bill recognizes that the States may enact their own form of volunteer protection and provides that State laws may permit the following:

A requirement that the organization or entity adhere to risk management procedures, including the training of volunteers;

A requirement that the organization or entity be accountable for the actions of its volunteers in the same way that an employer is liable for the acts of its employees;

An exemption from the liability protection in the event the volunteer is using a motor vehicle or similar instrument;

An exemption from the liability protection if the lawsuit is brought by a State or local official; and

A requirement that the liability protection applies only if the nonprofit organization or government entity provides a financially secure source of recovery, such as an insurance policy for those who suffer harm.

I look forward to the Senate's prompt consideration of this bill. Our communities are depending upon us to enact this pro-volunteer legislation. The time has come for us to help those who have given so much to all of us.

Mr. ABRAHAM. Mr. President, I am extremely pleased to rise today to join my colleagues, Senator COVERDELL and Senator MCCONNELL, in introducing the Volunteer Protection Act of 1997. I commend Senators COVERDELL and MCCONNELL for their leadership in encouraging and supporting the voluntarism that is so important to communities in Michigan and across this country.

This long overdue legislation will provide volunteers and nonprofit organizations with desperately needed relief from abusive lawsuits brought based on the activities of volunteers. Those are precisely the activities that we should be protecting and encouraging.

Last Congress, I spoke on the floor many times concerning the need for litigation reform and describing the litigation abuses that plague our small businesses, our consumers, our schools, and others. I came to Congress as a freshman Senator intending to press for lawsuit reforms, and I did. I supported the securities litigation reform legislation, which Congress successfully enacted over the President's veto, and I also supported the product liability reform bill, which the President unfortunately killed with his veto. I also introduced legislation with Senator MCCONNELL to provide broader relief in all civil cases, and offered floor amendments that would do the same.

I continue to support broader civil justice reforms and I particularly look forward to considering product liability reform legislation both in the Commerce Committee and on the floor. But I believe that our voluntary, nonprofit organizations urgently need protection from current lawsuit abuses. I encourage my colleagues to consider the problems facing our community groups and their volunteers, and to support this legislation. I hope that in this instance President Clinton will support this litigation reform bill, recognize the value of volunteers and nonprofit groups, and give them the protection they need to keep doing their good deeds.

Nonprofit organizations hold our Nation together. In them we learn to care for our neighbors. They are key to our survival as a nation and we must protect them with systemic reforms.

America has a vast interstate network of 114,000 operating nonprofit organizations, ranging from schools to hospitals to clinics to food programs.

This network's revenues totaled $388 billion in 1990. Meanwhile, revenues for the 19,000 support institutions, which raise money to fund operating organizations came to $29 billion. And total revenues for religious congregations were $48 billion. That's $465 billion worth of nonprofit activity we enjoyed in 1990 alone, Mr. President.

Nonprofit organizations rely heavily on volunteers, and Americans gladly comply. According to a 1993 report from the Independent Sector, a national coalition of 800 organizations, Americans donated 9.7 billion hours of their time to nonprofit organizations that year. This volunteer time produced the equivalent of 5.7 million full time volunteers, worth an estimated $112 billion.

Unfortunately voluntarism is declining nationwide. According to the Independent Sector report, the percentage of Americans volunteering dropped from 54 percent in 1989 to 51 percent in 1991 and 48 percent in 1993. Americans also are giving less money. The average household's charitable donation dropped from $978 in 1989 to $880 in 1993.

The decline of giving and volunteering spells danger for our voluntary organizations, for the people who depend on them, and for the social trust that is based on the spirit of association.

But why is voluntarism on the decline? Obviously there are a number of relevant factors, not least among them the need so many people today feel to work ever-harder and ever-longer to bear our growing tax burden. But one major reason for the decline is America's litigation explosion. Nonprofit organizations are forced to spend an increasing amount of time and resources preparing for, avoiding, and/or fighting lawsuits. Thus litigation has rendered our nonprofit organizations less effective at helping people, and allowed Americans to retreat more into their private lives, and away from the public, social activity that binds us together as a people.

The litigation costs facing voluntary associations are many. John Graham, on behalf of the American Society of Association Executives [ASAE], gave testimony last year arguing that liability insurance premiums for associations have increased an average 155 percent in recent years. Some of our most revered nonprofit institutions have been put at risk by increased liability costs.

Dr. Creightin Hale of Little League Baseball reports that the liability rate for a league increased from $75 to $795 in just 5 years. Many leagues cannot afford this added expense, on top of increasing costs for helmets and other equipment. These leagues operate without insurance or disband altogether, often leaving children with no organized sports in their neighborhood.

What kind of suits add to insurance costs? ASAE reports that one New Jersey umpire was forced by a court to pay a catcher $24,000. Why? Because the catcher was hit in the eye by a softball while playing without a mask. The catcher complained that the umpire should have lent him his.

Organizations that try to escape skyrocketing insurance costs must self-insure, and Andrea Marisi of the Red

Cross will describe self-insurance costs only as ''huge.'' The result? Obviously, we have fewer funds available for providing services than would otherwise be the case.''

Outside insurance generally comes with significant deductibles. Charles Kolb of the United Way points out that insurance deductibles for his organization fall into the range of $25,000–30,000. When, as has been the case in recent years, the organization is subjected to three or four lawsuits per year, $100,000 or more must be diverted from charitable programs.

And there are even more costs. Mr. Kolb reports that the costs in lost time and money spent on discovery, for example going through files for hours on end to establish who did what when, can run into the thousands of dollars. Further, as the Boy Scouts' William Cople puts it: ''We bear increased costs from risk management programs of many kinds—[including] those to prevent accidents. We have higher legal bills as well. But even more of a problem is the need to find pro-bono help to quell possible lawsuits. The Scouts must spend scarce time, and use up scarce human capital in preventing suits. For example, 5 years ago the General Counsel's office, a pro-bono operation, committed less than 100 hours per year on issues relating to lawsuits. Last year we devoted about 750 hours to that duty.'' The Boy Scouts must do less good so that they can defend themselves from lawsuits.

Frivolous lawsuits also increase costs by discouraging voluntarism. Dottie Lewis of the Southwest Officials Association, which provides officials for scholastic games, observes, ''Some of our people got to the point where they were just afraid to work because of the threat of lawsuits.'' What makes this fear worse is the knowledge that one need do no harm in order to be liable.

Take for example Powell versus Boy Scouts of America. While on an outing with the Sea Explorers, a scouting unit in the Boy Scouts' Cascade Pacific Council, a youth suffered a tragic, paralyzing injury in a rough game of touch football. Several adults had volunteered to supervise the outing, but none observed the game. The youth filed a personal injury lawsuit against two of the adult volunteers. The jury found the volunteers liable for some $7 million, which Oregon law reduced to about $4 million—far more than the volunteers could possibly pay.

What is more, as Cople points out, ''the jury seemingly held the volunteers to a standard of care requiring them constantly to supervise the youth entrusted to their charge, even for activities which under other circumstances may routinely be permitted without such meticulous oversight.''

One child's tragedy led a jury to impose an unreasonable standard of care on individuals who, after all, had volunteered their time and effort for an outing, not a football game.

No one can provide the meticulous oversight demanded by the jury. Thus volunteers are left at the mercy of events, and juries, beyond their control.

Such unreasonable standards of care also penalize our nonprofit organizations. Len Krugel of the Michigan Salvation Army reports that regulations and onerous legal standards often keep his organization from giving troubled youths a second chance. Because the organization is held responsible for essentially all actions by its employees and volunteers, it can take no risks in hiring. Thus the Salvation Army can neither hire nor accept voluntary services from any individual with any drug conviction, including a 0.3 reading on a breathalyzer test for alcohol consumption. As Mr. Krugel observes, ''If we can't give these kids a second chance, who can?''

Then there is the problem of joint and several liability, in which one defendant is made to pay for all damages even though responsible for only a small portion. Such findings are a severe burden on the United Way, a national organization that sponsors numerous local nonprofit groups. Although it cannot control local operations, the United Way often finds itself a defendant in suits arising from injuries caused by the local entity.

Such holdings result from juries' desire to find someone with the funds necessary to pay for an innocent party's injuries. But this search for the deep pocket leads to what Ms. Marisi calls a ''chilling effect'' on Red Cross relations with other nonprofits. The Red Cross is now less willing to cooperate with smaller, more innovative local agencies that might make it more effective.

Thus nonprofits forbear from doing good because they cannot afford the insurance, they cannot afford the loss of volunteers, they cannot afford the risk of frivolous lawsuits.

The Volunteer Protection Act will address the danger to our nonprofit sector, Mr. President. It will not solve all the problems facing our volunteers and nonprofits, but it will provide voluntary organizations with critical protection against improper litigation, at the same time that it recognizes the ability of the States to take additional or even alternative protections in some cases. By setting the standard for the protection of volunteers outright, this bill provides much-needed lawsuit relief immediately to volunteers and nonprofits wherever they may be. Let me briefly describe what this bill does.

The bill protects volunteers from liability unless they cause harm through action that constitutes reckless misconduct, gross negligence, willful or criminal misconduct, or is in conscious, flagrant disregard for the rights and safety of the individual harmed. This ensures that where volunteers truly exceed the bounds of appropriate conduct they will be liable. But in the many ridiculous cases I have discussed—where no real wrongdoing occurred—the volunteer will not be forced to face and defend a lawsuit.

In lawsuits based on the actions of a volunteer, the bill limits the punitive damages that can be awarded. It is unfortunate that charities and volunteers have punitive damages awarded against them in the first place, but they do—Congressman JOHN PORTER reports that in August of 1990 a Chicago jury awarded $12 million to a boy who was injured in a car crash. The ''negligent'' party? The estate of the volunteer who gave his life attempting to save the boy.

Under this bill, punitive damages in cases involving the actions of a volunteer could be awarded against a volunteer, nonprofit organization, or government entity only upon a showing by the claimant that the volunteer's action represented willful or criminal misconduct, or showed a conscious, flagrant disregard for the rights and safety of the individual harmed.

This should ensure that punitive damages, which are intended only to punish a defendant and are not intended to compensate an injured person, will only be available in situations where punishment really is called for because of the egregious conduct of the defendant.

The bill also protects volunteers from excessive liability that they might face through joint and several liability. Under the doctrine of joint and several liability, a plaintiff can obtain full damages from a defendant who is only slightly at fault. I have spoken many times before about the unfairness that may result from the application of this legal doctrine. The injustice that results to volunteers and nonprofits is often even more acute, because they lack the resources to bear unfair judgments.

This bill strikes a balance by providing that, in cases based on the actions of a volunteer, any defendant that is a volunteer, nonprofit organization, or government entity will be jointly and severally responsible for the full share of economic damages but will only be responsible for noneconomic damages in proportion to the harm that that defendant caused. That is a fair approach.

Finally, I would like to speak for a moment about how this legislation preserves important principles of federalism and respects the role of the States. First, the bill does not preempt State legislation that provides greater protections to volunteers. In this way, it sets up outer protections from which all volunteers will benefit and permits States to do more. Second, the bill includes an opt-out provision that permits States, in cases involving only parties from that State, to affirmatively elect to opt out of the protections provided in the Volunteer Protection Act. A State can do so by enacting a statute specifically providing for that. I suspect that no States will elect to do so, but I feel that, as a matter of principle, it is important to include that provision.

In short, these reforms can help create a system in which plaintiffs sue only when they have good reason—and only those who are responsible for their damages—and in which only those who are responsible must pay. Such reforms will create an atmosphere in which our fear of one another will be lessened, and our ability to join associations in which we learn to care for one another will be significantly greater.

And that, Mr. President, will make for a better America.

I urge my colleagues on both sides of the aisle to support this important piece of legislation.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. FRIST], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 6

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 61

At the request of Mr. LOTT, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Ms. COLLINS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 71

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 224

At the request of Mr. WARNER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 253

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 253, a bill to establish the negotiating objectives and fast track procedures for future trade agreements.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 394

At the request of Mr. HATCH, the names of the Senator from Washington [Mr. GORTON], the Senator from Texas [Mr. GRAMM], the Senator from Hawaii [Mr. INOUYE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 404

At the request of Mr. BOND, the names of the Senator from Michigan [Mr. ABRAHAM], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 404, a bill to modify the budget process to provide for separate budget treatment of the dedicated tax revenues deposited in the Highway Trust Fund.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 415, a bill to amend the Medicare Program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 428

At the request of Mr. KOHL, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 436

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 436, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

S. 479

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mr. ROBERTS], the Senator from Kentucky [Mr. FORD], the Senator from Wyoming [Mr. THOMAS], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

S. 493

At the request of Mr. KYL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 494

At the request of Mr. KYL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 495

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. ALLARD], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Oklahoma [Mr. INHOFE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 495, a bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Mississippi [Mr. COCHRAN] were added as