The Clerk announced the following pair:

On this vote:
Mr. Stokes and Mr. Barnard for, with Mr. Jones of Oklahoma against.

Mr. DEKAS, BROOMFIELD, WEBER, DASCHLE, SCHAEFER, PARRIS, DEWINE, PURSELL, PEASE, RAY, PACKARD, and KASCHICH, Mrs. BYRON, MR. KLECZKA, Mrs. HOLT, and Messrs. MORRISON of Washington, ROWLAND of Connecticut, McHUGH, BATES, JACOBS, and HERTEL of Michigan changed their votes from "yea" to "nay."

Messrs. MOLINARI, STANGE-LANDIS, RAHALL, GOODLING, PACKARD, McHUGH, GILMAN, LATTA, REGULA, and WILSON changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KILDEE). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the second motion to suspend the rules on which the Chair has postponed further proceedings.

AUTHORIZING CONSTRUCTION OF SALINITY RESEARCH LABORATORY AT RIVERSIDE, CA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5215.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 5215, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were 288 yeas, 53 nays, 59 not voting, as follows:

That the House suspend the rules and pass the bill, H.R. 5215, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 326, nays 85, not voting 21, as follows:

The Clerk read the title of the bill.

The Clerk announced the following pair:

Mr. STRANG changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.
in lieu of the matter proposed to be inserted by the amendment of the House of Representatives to the text of the bill entitled:

SEC. 1. SHORT TITLE.

This Act may be cited as the "False Claims Amendments Act of 1986".

SEC. 2. CLAIMS.

Section 3729 of title 31, United States Code, is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(a) LIABILITY FOR CERTAIN ACTS.—Any person who—"

(2) in paragraph (1) by striking "Government or a member of an armed force" and inserting "United States Government or a member of the Armed Forces of the United States";

(3) in paragraph (2) by inserting "by the Government" after approved;

(4) in paragraph (4)—

(A) by striking "public"; and

(B) by striking "in an armed force" and inserting "by the Government";

(5) in paragraph (5)—

(A) by striking "may be an armed force" and inserting "by the Government"; and

(B) by striking "or" after the semicolon;

(6) in paragraph (6)—

(A) by striking "a member of an armed force" and inserting "an officer or employee of the Government, or a member of the Armed Forces,";

(B) by striking the period at the end of the paragraph and inserting "; or";

(7) by adding at the end of the subsection the following:

"(7) knowingly makes, uses, or causes to be made or used, a false record or statement to defraud the United States, or a member of an armed force, of money or property to which the United States, or a member of an armed force, is entitled.

is liable to the United States Government for a civil penalty not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

"(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation; and

"(B) such person fully cooperated with any Government investigation of such violation; and

"(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person, and any person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) KNOWING AND KNOWingly Defined.—For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information—

"(1) has actual knowledge of the information;

"(2) acts in deliberate ignorance of the truth or falsity of the information; or

"(3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(c) CLAIM DEFINED.—For purposes of this section, "claim" includes any request or demand, or any other assertion, direct or indirect, for money or property or for anything of value, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(d) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subparagraphs (A) through (C) of subsection (a) shall be exempt from disclosure under section 552 of title 5.

(e) Effect of subsection.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

SEC. 3. CIVIL ACTIONS FOR FALSE CLAIMS.

Section 3730 of title 31, United States Code, is amended to read as follows:

"§ 3730. Civil actions for false claims

(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall proceed with the action under this section, 3732, if the Attorney General finds that a person has violated or is violating section 3732, the Attorney General may bring a civil action or the person may bring an action

(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3732 for the person and for the United States with the information about the violation, no criminal prosecution, civil action will interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses;

"(iv) otherwise limiting the participation by the person in the litigation.

(2) Upon a showing by the defendant that the action would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses;

"(iv) otherwise limiting the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person bringing the action shall have the right to conduct the action. If the Government requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the Government's expense. When a person proceeds with the action, the court, without regard to the statutory status of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with an action, upon a showing by the Government that certain actions of discovery or investigation or prosecution of a criminal or civil matter arising out of the facts of such claim would interfere with or unduly delay the Government's prosecution of such other criminal or civil matter, the court may stay the discovery or other proceeding.

(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3732 for the person and for the United States with the information about the violation, no criminal prosecution, civil action will interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses;

"(iv) otherwise limiting the participation by the person in the litigation.

(2) Upon a showing by the defendant that the action would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses;

"(iv) otherwise limiting the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person bringing the action shall have the right to conduct the action. If the Government requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the Government's expense. When a person proceeds with the action, the court, without regard to the statutory status of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with an action, upon a showing by the Government that certain actions of discovery or investigation or prosecution of a criminal or civil matter arising out of the facts of such claim would interfere with or unduly delay the Government's prosecution of such other criminal or civil matter, the court may stay the discovery or other proceeding.

(c) CLAIM DEFINED.—For purposes of this section, "claim" includes any request or demand, or any other assertion, direct or indirect, for money or property or for anything of value, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.
finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for procurement of review by any procedure prescribed by law has expired, or if the finding or conclusion is not subject to judicial review.

"(A) NOT NO COURT SHALL HAVE JURISDICTION OVER AN ACTION UNDER THIS SECTION BASED UPON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A CONGRESSIONAL, ADMINISTRATIVE, OR GOVERNMENT ACCOUNTING OFFICE REPORT, HEARING, AUDIT, OR INVESTIGATION, OR ANY COURT MAY AWARD SUCH SUMS AS IT CONSIDERS APPROPRIATE, BUT IN NO CASE MORE THAN 10 PERCENT OF THE PROCEEDS OF THE ACTION TO ANY PERSON IN A MANNER THAT WOULD SIGNIFICANTLY COMPROMISE THE INVESTIGATION OR PROSECUTION OF THE ACTION.

"(B) For purposes of this paragraph, "necessarily in furtherance" means a direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(C) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(D) FEES AND EXPENSES TO PREVAILING DEFENDANTS.—(1) After an action under this section is filed, the court may award to a person under the first or second subsection of section 2412(d) of title 28 any expenses, fees, and costs incurred in the defense and the appeal of the action.

SEC. 6. ENTRAPMENT TO RELIEF FOR DISCRIMINATION BY EMPLOYERS AGAINST EMPLOYEES WHO REPORT VIOLATIONS.

Section 3730 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(a) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts by the employee or his or her代理人 in furnishing information to the employer or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status, the payment of all wages, salaries, and other benefits equal to those which the employee would have beenaccrued if the employment had not been terminated.

"(b) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts by the employee or his or her代理人 in furnishing information to the employer or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status, the payment of all wages, salaries, and other benefits equal to those which the employee would have beenaccrued if the employment had not been terminated.

"(c) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a former or present member of Congress, the amount of the proceeds shall be divided as follows: 70 percent of the proceeds, taking into account any expenses, fees, and costs incurred in the defense and the appeal of the action, the court may award to a person under the first or second subsection of section 2412(d) of title 28 any expenses, fees, and costs incurred in the defense and the appeal of the action.

"(D) TO FURNISH ANY COMBINATION OF SUCH MATERIAL, ANSWERS, OR TESTIMONY.

The Attorney General may not delegate the authority to conduct an investigative demand under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall have the authority, in a manner authorized by this section, to serve a copy of such demand. When a civil investigative demand was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(E) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought under subsection (b) or (c) against a person on account of any civil or administrative hearing, in a congressional, administrative, or Government accounting office report or investigation, or any civil penalty proceeding in which the Government is already a party.

"(F) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any civil penalty proceeding in which the Government is already a party.

"(G) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any civil penalty proceeding in which the Government is already a party.

"(H) ANY EMPLOYEE WHO IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED, HARASSED, OR IN ANY OTHER MANNER DISCRIMINATED AGAINST IN THE TERMS AND CONDITIONS OF EMPLOYMENT BY HIS OR HER EMPLOYER BECAUSE OF LAWFUL ACTS BY THE EMPLOYEE OR HIS OR HER AGENT IN FURNISHING INFORMATION TO THE EMPLOYER OR OTHERS IN FURTHERANCE OF AN ACTION UNDER THIS SECTION, INCLUDING INVESTIGATION FOR, INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER THIS SECTION, SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE EMPLOYEE WHOLE. SUCH RELIEF SHALL INCLUDE REINSTATEMENT WITH THE SAME SENIORITY STATUS, THE PAYMENT OF ALL WAGES, SALARIES, AND OTHER BENEFITS EQUAL TO THOSE WHICH THE EMPLOYEE WOULD HAVE BEEN ACCRUED IF THE EMPLOYMENT HAD NOT BEEN TERMINATED.

"(I) IN GENERAL.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information upon which a civil investigative demand in a civil money penalty proceeding in which the person bringing the action has a direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(J) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(K) FEES AND EXPENSES TO PREVAILING DEFENDANTS.—(1) After an action under this section is filed, the court may award to a person under the first or second subsection of section 2412(d) of title 28 any expenses, fees, and costs incurred in the defense and the appeal of the action.

"(L) To answer in writing written interrogatories with respect to such documentary material or information.

"(M) To give oral testimony concerning such documentary material or information.

"(N) To furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to conduct an investigative demand under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall have the authority, in a manner authorized by this section, to serve a copy of such demand. When a civil investigative demand was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(O) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought under section 3730 may not be brought—

"(P) If the action is brought by a former or present member of Congress, or an Assistant Attorney General shall have the authority, in a manner authorized by this section, to serve a copy of such demand. When a civil investigative demand was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(Q) IN GENERAL.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information upon which a civil investigative demand in a civil money penalty proceeding in which the person bringing the action has a direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(R) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(S) FEES AND EXPENSES TO PREVAILING DEFENDANTS.—(1) After an action under this section is filed, the court may award to a person under the first or second subsection of section 2412(d) of title 28 any expenses, fees, and costs incurred in the defense and the appeal of the action.

"(T) TO FURNISH ANY COMBINATION OF SUCH MATERIAL, ANSWERS, OR TESTIMONY.

The Attorney General may not delegate the authority to conduct an investigative demand under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall have the authority, in a manner authorized by this section, to serve a copy of such demand. When a civil investigative demand was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(U) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought under section 3730 may not be brought—

"(V) If the action is brought by a former or present member of Congress, or an Assistant Attorney General shall have the authority, in a manner authorized by this section, to serve a copy of such demand. When a civil investigative demand was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.
(ii) prescribe a date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) identify the false claims law investigator to whom such answers shall be submitted.

(C) If such demand is for answers to written interrogatories, the demand shall—

(i) prescribe the date at which time answers to written interrogatories shall be submitted; and

(ii) identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall—

(i) prescribe a date, time, and place at which and for oral testimony is necessary.

(ii) identify the false claims law investigator who shall conduct the examination and the custodian to whom the transcript of any such deposition shall be submitted.

(iii) specify that such attendance and testimony are necessary to the conduct of the investigation and in the possession, custody, or control of the person to whom the demand is directed.

(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery, the submission of any document, the taking of an oral deposition, the giving of any oral answers to written interrogatories, or the for oral testimony by the same person unless demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, any such answers, or any such oral testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court, or by the Attorney General to aid in a grand jury investigation, or

(B) the standards applicable to discovery requests under Rules 26 and 34 of the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(F) The date prescribed for the commence ment of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an assistant attorney general designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period.

(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony within a period of days, unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. The Attorney General may not, notwithstanding section 510 of title 28, authorize the performance, by any other officer, of any investigation in the Attorney General under this subparagraph.

(i) PROJECTED MATERIAL OR INFORMATION

(1) In General.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral answers to written interrogatories if such material, any such answers, or any such oral testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court, or by the Attorney General to aid in a grand jury investigation, or

(B) the standards applicable to discovery requests under Rules 26 and 34 of the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(ii) SWORN CERTIFICATES.—The production of any documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been made and produced available to the false claims law investigator identified in the demand.

(iii) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand for oral testimony pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by—

(A) in the case of a natural person, the person to whom the demand is directed, or

(B) in the case of a person other than a natural person, the person having knowledge of such production and authorized to act on behalf of such person.

(iv) INTERROGATORIES.—Each interrogatory in a civil investigative demand issued under subsection (a) shall be answered separately and in the demand.

(v) Sworn Certificates.—The production of any documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

(A) in the case of a natural person, the person to whom the demand is directed, or

(B) in the case of a person other than a natural person, the person having knowledge of such production and authorized to act on behalf of such person.

(vi) ORAL EXAMINATIONS.—(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone authorized by the officer, administer the oath or affirmation in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. If the officer before whom the testimony is taken shall not promptly transmit a copy of the transcript of the testimony to the custody of the person to whom the demand is directed, the officer shall promptly transmit a copy of the transcript of the testimony to the person to whom the demand is directed.
authorized, and in a manner consistent with, the Federal Rules of Civil Procedure.

(2) PERSONS PRESENT.—The false claims law investigator or the officer before whom the testimony is taken shall afford the attorneys for the United States, the person giving the testimony, and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the attorneys for the United States, the person giving the testimony, and, upon request, the officer before whom the testimony is to be taken, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness, in which case the officer before whom the testimony is to be taken and the person giving the testimony shall be afforded an opportunity to examine and read the transcript.

(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify that the officer has been sworn by the officer before whom the testimony is to be taken, that the testimony was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer before whom the testimony is to be taken shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(6) RETURN OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness's testimony.

(7) CONDUCT OF ORAL TESTIMONY.—(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the grounds for the objection. Such objection may be made, received, and entered upon the record when it is claimed that the question has been improperly asked or refused to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination.

(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compiled in accordance with the provision of part V of title 18.

(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand served under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

(9) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

(10) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

(11) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS.—(A) Documentary material and answers to interrogatories, and transcripts of oral testimony received under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall return to the custodian or other officer or employee of the Department of Justice of the custodian of such material, answers, or transcripts for the return of documentary material under paragraph (4).

(B) The custodian may cause the preparation of copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice, who is authorized for such use under regulations prescribed by the Attorney General. The custodian shall cause the examination and analysis of all documentary material and other information as assembled in the course of such investigation, the custodian shall, upon written request of any person who received such materials, return to such person any such material other than copies furnished to the false claims law investigator under subsection (d)(2) for the return of documentary material and other information as assembled in the course of such investigation, the custody and control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

(12) CONDITIONS FOR RETURN OF MATERIAL.—(A) Any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section.

(B) Any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency in which such material has been completed, or

(9) APPOINTMENT OF SUCCESSOR CUSTODIANS.—(A) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, the custody, control, and use of such material, answers, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, shall be assigned to such other officer or employee of the Department of Justice as the Attorney General may designate to serve as successor custodian under subsection (d)(4).

(10) CONCLUSION.—(A) Any person who is designated to be a successor custodian under this section shall have such powers and duties as were imposed by this section upon that person authorized by that person to examine such material and answers; and

(B) Any authority of the Department of Justice shall be limited to examination and analysis of all documentary material and other information as assembled in the course of such investigation, the custody and control of such court, grand jury, or agency through introduction into the record of such case or proceeding.
person’s predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred prior to the amendment.

"(1) JUDICIAL PROCEEDINGS.—

"(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand, or refuses or fails to answer, or whenever a party or custodian refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

"(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—(A) Any person who has received a civil investigative demand issued under section (a)(2) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

"(3) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the person to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand.

"(3) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a), such as scripts of oral testimony given by any person in compliance with any civil investigative demand issued under subsection (a), such as scripts of oral testimony given by any person in compliance with any civil investigative demand issued under subsection (a), such as scripts of oral testimony given by any person in compliance with any civil investigative demand issued under subsection (a), shall be deemed a contempt of the court.

"(4) APPLICABILITY OF FEDERAL RULES.—(A) Any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States, a petition to require performance by a custodian of any duty shall have jurisdiction to hear and determine the matter so presented, and to enter any order or orders as may be required to carry out the provisions of this section.

"(5) JUDICIARY.—Whenever any petition is filed in any district court of the United States, such court shall have jurisdiction to hear and determine the matter so presented, and to enter any order or orders as may be required to carry out the provisions of this section.

"(6) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any person is in custody or control of any documentary material or other legal right or privilege of such person, the Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

"(7) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

"(8) DEFINITIONS.—For purposes of this section—

"(A) the term 'false claims law investigation' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law.

"(B) the term 'false claims law investigator' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any attorney or investigator employed by the United States under the direction and supervision of such attorney or investigator in connection with a false claims law investigation.

"(C) the term 'person' means any natural person, corporation, association, or other legal entity, including any State or political subdivision of a State.

"(D) the term 'false claims law investigation' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to enable the interpretation of such data compilations, and any product of discovery.

"(E) the term 'custodian' means the custodian, or any deputy custodian, designated by the Attorney General under subsection (a)(1); and

"(F) the term 'product of discovery' includes

"(i) any original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature.

"(ii) any digest, analysis, selection, compilation, or derivation of any items listed in subparagraph (A); and

"(iii) any index or other manner of access to any item listed in subparagraph (A).

"(6) CLERICAL AMENDMENT.—The table of contents for chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3731 the following:

"3732. False claims jurisdiction.

"3733. Civil investigative demands.

"(1) Section 287 of title 18, United States Code, is amended by striking "fined" and all that follows through "both" and inserting "imprisoned not more than five years and shall be subject to a fine in the amount provided in this title".

Mr. Glickman (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. Walker. Mr. Speaker, reserving the right to object, I am just trying to figure out what it is we are doing here. I could not hear which bill number it was that we were proceeding with.

Mr. Speaker, I yield to the gentleman from Kansas [Mr. Glickman].

Mr. Glickman. Mr. Speaker, reserving the right to object, this bill is called the False Claims Amendment Act of 1986. This is a bill which has already passed the House. The False Claims Amendment Act of 1986 is supported by the administration, has passed the other body, and is now coming back here with the Senate amendment which we are going to consider under unanimous consent. It has got the agreement of the minority and there is no objection by the administration.

Mr. Walker. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. Walker. Mr. Speaker, reserving the right to object, will the gentleman from Kansas [Mr. Glickman] explain the amendment?

Mr. Glickman. Mr. Speaker, in 1983, during the Civil War, the False Claims Act became law. This act,
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S. 1562, the False Claims Amendment Act of 1986, is a very important piece of legislation. The False Claims Act is the primary vehicle by which the Government prosecutes civil fraud. In 1986, with a deficit in the range of $200 billion, I think it is imminently important that we modernize this statute so that the Government has a workable law through which to prosecute fraud and recoup the losses suffered by the Government.

The bill S. 1562, now at the desk, is a reasonable compromise and necessary in order for this legislation to become law. I would like to thank all those Members who participated in working out this compromise and would specifically like to thank the gentleman from California [Mr. BERMAN].

I urge my colleagues to support the bill, S. 1562.

Mr. CABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. BERMAN. Mr. Speaker, reserving the right to object under my reservation, I simply want to congratulate the gentleman from Kansas [Mr. Glickman], the chairman of the subcommittee, for in a very brief period of time, in less than 9 months, taking an issue which had been laying around in Congress for several years and moving forward, negotiating with a variety of parties and putting together what I think will soon be seen as perhaps the most effective antifraud legislation we will have enacted in this session of Congress.

I also would like to point out that the final version of the bill, as amended, that is before us at this time preserves and strengthens the role of the person initiating the action even if the Government enters the case.

Another reason for providing for this full party status is to keep pressure on the Government to pursue the case in a diligent fashion. Even the United States Government is not without financial limitations. It is not uncommon for Government attorneys to be overworked and underpaid given the demanding tasks and frequently overwhelming case loads they must handle. I do not say this to impugn the ability or character of Government attorneys, but only to reflect the difficulties that they encounter. Limitations on Government activities in all areas which include the budgets of the Government's prosecuting agencies. If the Government can pass a law that will increase the resources available to confront fraud against the Government without paying for it with taxpayers' money, we are all better off. I urge my colleagues to support the bill, S. 1562.

Mr. Berman. Mr. Speaker, I include the following legislative history for the Record:

Legislative History
1. ROLE OF THE PARTY

The final version of the Bill preserves and strengthens the role of the person initiating the action even if the Government enters the case. The law makes clear that this person, 'qui tam plaintiff,' will be a 'party' to the action with all the rights and responsibilities that a party receives under the Federal Rules of Civil Procedure. The Court may impose some limitations on the party's full participation only if the Government meets its burden of establishing that the person's conduct has violated the following standards set forth in the Act: undue delay, repetitious, irrelevant, interference or harassment. The term 'interfere' with the government's ability to prosecute the case is intended to mean some specific action prohibited by the law that the qui tam plaintiff will have the likely probability of significantly disrupting the government's prosecution of the case. Inconvenience or minor disruption is not this standard. Moreover, a certain amount of overlap and inefficiency is expected with the dual participation of both the government and the qui tam plaintiff on the same side, but it is anticipated that part of the trade-off to bring about an increased amount of legal resources on behalf of the government's interest.

The term 'repetitious' refers to the situation where without good cause the qui tam plaintiff repeats what the government has already done. It is not intended to limit what the qui tam plaintiff may do because the government is already on a similar litigation activity in the future.

Undue delay is most likely to be applied in the context of the trial itself rather than pretrial activity. The qui tam plaintiff, for example, proposes to call numerous witnesses whose testimony may have little probative value, the Court may limit such testimony, then the qui tam plaintiff requires a showing by the government that the significant delay that may be cause by the specific activity proposed by the qui tam plaintiff will outweigh any possible benefit that would be obtained for the qui tam plaintiff's case.

Another reason for providing for this full party status is to encourage a working partnership between both the Government and the qui tam plaintiff. The public will be well served by having more legal resources brought to bear against those who defraud the Government. The qui tam plaintiff's role should be curtailed only when counsel for the qui tam plaintiff appears to interfere or when the person conducts himself in such a way that the federal court proceedings that result in undercutting the Government's ability to prosecute the case.

Settlement of Lawsuits

While the law enables the Government to enter into a settlement with the defendant, it does require Court review of that settle-
1. KNOWING AND KNOWINGLY DEFINED

2. WHISTLEBLOWER PROTECTION

The whistleblower protection section of the bill is extremely important and is designed to protect the person from any retaliatory action taken by his employer. This section is intended to afford full protection to the employee if the retaliatory action is in any way connected to a person’s activities pursuant to this law. It does not have to be the primary reason for the employer’s actions. As long as the retaliatory action by the employer is motivated in part because of the disclosure of this law, the protection specified in that whistleblower section shall be applicable.

3. KNOWING AND KNOWNLY DEFINED

The bill adopts the Senate version of the knowledge standard that must be found to establish liability under this Act. It expressly acknowledges that no proof of specific intent to defraud the government is required. There is no requirement for the courts to determine that it was vexatious, or brought for purposes of harassment. Thus, the Court must not make two findings in order to award fees against the plaintiff initiating the action; the Court must find both that the case is wholly lacking in merit, and the person’s motives for pursuing the case demonstrated extreme bad faith, and fit within one of the terms expressly provided for in that section.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING THE AUTHORITY OF THE SUPREME COURT POLICE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 5362) to extend the authority of the Supreme Court Police to provide protective services for Justices and Court personnel, with a Senate amendment therein, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, after line 8, insert:

(a) shall take effect on October 1, 1986.

(b) The amendment made by subsection (a) shall take effect on October 1, 1986.

Mr. GLICKMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Kansas?

There was no objection.