The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3213) was agreed to.

DEVELOPMENTAL DISABILITIES AWARENESS MONTH

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now turn to the consideration of House Joint Resolution 741, a joint resolution pronouncing "Developmental Disabilities Awareness Month," which is now being held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 741) to designate March 1987 as "Developmental Disabilities Awareness Month."

The Senate proceeded to consider the joint resolution.

Mr. STEVENS. Mr. President, I ask for adoption of the joint resolution.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 741) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

NATIONAL YEAR OF THE TEACHER

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate turn to the consideration of House Joint Resolution 635, the "National Year of the Teacher."

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 635) to designate the school year of September 1986 through May 1987 as "National Year of the Teacher," and January 28, 1987, as "National Teacher Appreciation Day."

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 635) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

YEAR OF THE READER

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now turn to the consideration of House Joint Resolution 671, designating the "Year of the Reader," which is being held at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 671) designated 1987 as "Year of the Reader."

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 671) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

FALSE CLAIMS AMENDMENTS ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 15054.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 15054) entitled "An Act to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes", do pass with the following amendments:

Strike out after the enacting clause and insert:

SECTION 1. SHORT TITLE.

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

SEC. 2. FALSE 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 the armed forces" and inserting "United States Government or a member of the armed forces";

(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 (8)—

(A) by striking "an officer or employee of the Government, or a member of the armed forces;" and

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

(6) in paragraph (b)—

(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;"; and

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

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

The knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the United States would not have sustained but for—

"(A) the commission of any of the acts prohibited by subsection (a) or

"(B) entering into or making any contract or grant as a result, in any material part, of any false statement, record, or claim.

"(8) Any credits to which the defendant is entitled may be deducted from the amount payable under subsection (a) only after the damages sustained by the United States have been doubled as set forth in subsection (a).

"(9) If any portion of the damages sustained by the United States under paragraph (1) is considered reasonably foreseeable by the court, the court may reduce the total amount of damages payable under paragraph (1) by a

"(A) the amount of such amount which is requested or demanded by the Government; or

"(B) a

"(a) EXCLUSION.—This section does not apply to claims, records, or statements made by the Government, or by any 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.

"(b) CLAIM DEFINED.—For purposes of this section, "claim" includes any request or demand, whether under a contract or otherwise, 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.

"(c) EXCLUSION.—This section does not apply to claims, records, or statements made by the Government, or by any person with respect to information—

"(A) relating to a United States Federal Corporation or other-
3729. the Attorney General may bring a civil action under this section against the person.

(1) If the Government proceeds with the action under this section, any person other than the person bringing the action shall have a right to receive at least 15 percent but not more than 25 percent of the proceeds obtained under paragraph (3), the proceeds of the action or settlement and shall be paid out of such proceeds.

(2) If the Government does not proceed with the action under this section, the person bringing the action or settling the claim shall receive an amount which the court finds to have been reasonably incurred, plus reasonable attorneys’ fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) If the Government so requests, it shall be served on the Government pursuant to Rule 4d of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until 20 days after the complaint is unsealed and served on the defendant.

(4) Subject to paragraph (5), before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall —

(a) proceed with the action, in which case the action shall be conducted by the Government;

(b) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action;

(c) file a motion to dismiss the action, on grounds that shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served on the defendant, if the Government proceeds with the action.

(5) Subject to paragraph (6), the court shall—

(a) proceed with the action, in which case the action shall be conducted by the Government;

(b) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action;

(c) file a motion to dismiss the action, on grounds that shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served on the defendant, if the Government proceeds with the action.

(f) 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 done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony or assistance in any other manner in such action, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement to the same seniority status the employee would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section.
years after the date on which the violation is committed, whichever occurs last.

"(c) In any action brought under section 3730, the United States shall be required to prove by a preponderance of the evidence that the cause or action, including damages, by a preponderance of the evidence.

"(d) Notwithstanding any other provision of law, any civil investigative demand or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act prohibited by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

"(e) Claims under State law.—Any such demand which is an express request for any product of discovery pursuant to any such examination shall be submitted. Any such demand which is an express demand for any product of discovery shall not be returned or returnable until 20 days after the demand has been served upon the person from whom the discovery was obtained.

"(f) Protected Material or Information.—Any such demand which is an express request for any product of discovery shall be submitted. Any such demand which is an express demand for any product of discovery shall not be returned or returnable until 20 days after the demand has been served upon the person from whom the discovery was obtained.

"(g) In any action brought under section 3730, the United States shall be required to prove by a preponderance of the evidence that the cause or action, including damages, by a preponderance of the evidence.
shall make such material available for inspection and copying to the false claims law investigator identified in such demand at any reasonable time and place and such investigator or the person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, and such investigator or the person shall be given a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance made by the false claims law investigator shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given for such changes made in writing. The false claims law investigator shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. The officer shall then be signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator. The officer or the false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian. This subsection shall not preclude the taking of such evidence as authorized by the laws of the United States or of any state in connection with the taking of oral testimony under this section.

(9) INTERROGATORIES—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

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

(2) in the case of a person other than a natural person, the person or persons responsible for the information involved if any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate may not exceed one page. Any interrogatory not answered or any response to this interrogatory not furnished, the information shall be identified and reasons set forth with particular regard to information for the privacy of the natural person, to whom the demand is directed.

(10) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony shall be taken as happens at a deposition, except the 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 to administer such oath or affirmation, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is to be taken shall certify on the transcript that the witness was sworn by the officer and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(11) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and the officer or false claims law investigator shall promptly deliver the transcript to the custodian.

(12) Furnishing or inspection of transcript by witness.—Upon payment of reasonable cost, 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.

(13) Custodians of documents, answers, and transcripts.—The provisions of this section shall exclude from the place where the examination is held. The 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 to administer such oath or affirmation, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is to be taken shall certify on the transcript that the witness was sworn by the officer and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(3) Orally Examination.—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 to administer such oath or affirmation, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is to be taken shall certify on the transcript that the witness was sworn by the officer and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(4) Oral Examination.—(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 reason for the objection. An objection made in this manner may be overruled, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of the privilege against self-incommunication. Such person may not otherwise object to or refuse to answer any question, and no charges for time or other compensation shall otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

(B) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(C) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(D) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(E) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(F) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(G) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(H) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(I) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.

(J) If such person refuses to answer any question, the court may enter an order compelling such person to answer such question.
“(1) Transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine the testimony.

“(2) Use of material, answers, or transcripts in other proceedings.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers, or transcripts to which such person has been designated under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any civil investigative demand issued under this section, or in the event of a contempt of the court, to modify or set aside such demand, or in the event of a contempt of the court by any person in connection with any civil investigative demand issued under subsection (a), or at any time before the return date specified in the demand, whichever date is earlier, or

“(3) Petition to modify or set aside demand for product of discovery.—(A) In the case of any civil investigative demand issued under subsection (a) which is an extension of a civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person 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, is found, or transacts business, and the custodian of such material, answers, or transcripts, or a successor shall not be held responsible for any default or delinquency which occurred before that designation.

“(4) Use of material, answers, or transcripts in other proceedings.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers, or transcripts to which such person has been designated under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any civil investigative demand issued under this section, or in the event of a contempt of the court, to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify, or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be—

“(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

“(ii) within such longer period as may be prescribed by the authority having jurisdiction over such material, answers, or transcripts, or a successor designated by that authority.

“(5) Conditions for return of material.—If any documentary material has been produced pursuant to a civil investigative demand issued under subsection (a) or made by the Department of Justice under paragraph (2)(B) which has not been used in the case of any civil investigative demand under this section, and—

“(A) a case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been commenced, or

“(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material other than copies furnished to the false claims law investigator pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

“(i) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

“(ii) serve upon the person who produced such material, answers, or transcripts, or the successor to that person, a petition for an order of the court to modify or set aside such demand.

“(6) Petition for enforcement.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a) or at any time before the return date specified in the demand, whichever date is earlier, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person 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, is found, or transacts business, and the custodian of such material, answers, or transcripts prescribed in writing by any false claims law investigator identified in the demand and upon the receipt of the demand, a petition for an order of the court to modify or set aside such demand. Any petition under this subparagraph must be filed—

“(A) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

“(B) within such longer period as may be prescribed by the authority having jurisdiction over such material, answers, or transcripts, or a successor designated by that authority.

“(7) Petition to modify or set aside demand for product of discovery.—(A) In the case of any civil investigative demand issued under subsection (a) which is an extension of a civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

“(B) 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 demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

“(C) During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

“(D) The petition shall specify each ground upon which the petitioner relies in seeking relief under subsection (a), or at any time before the return date specified in the demand, whichever date is earlier, or

“(I) within such longer period as may be prescribed by the authority having jurisdiction over such material, answers, or transcripts, or a successor designated by that authority.

“(8) Petition to require performance by custodian of duties.—At any time during which any custodian is in custody or control of any documentary material or an¬

swers, or transcripts, the same duties and responsibilities of the custodian who produced such material, answers, or transcripts shall be imposed upon such person a petition for an order of such court for the enforcement of the civil investiga-
tive demand.

“(9) Jurisdiction.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this subsection shall be punished as a contempt of the court.

“(10) Applicability of Federal Rules of Civil Procedure.—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.

“(11) 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.

“(12) Definitions.—For purposes of this section—

“(A) the term 'false claims law' means—

“(i) this section and sections 3729 through 3732, and

“(ii) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court in any of the United States any civil remedy with respect to any claim for fraud in matters involving false claims against the United States under this subsection, such court to modify or set aside such demand.

“(1) the term 'false claims law investigation' means—

“(i) a false claims law investigation conducted by the Department of Justice under paragraph (2)(B) which has not been used in the case of any civil investigative demand under this section, or upon any constitutional or other legal right or privilege of such person.

“(3) 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 officer or employee of the United States acting under the direction and supervision of such attorney or investigator.

“(4) the term 'false claims investigation' means any action or investigation under a false claims law.

“(5) the term 'false claims material' includes the original or any copy of any book, record, account, or other document, correspondence, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information storage system and all other materials necessary to use or interpret such data compilations, and any product of discovery.

“(6) the term 'false claims law' includes the customs, or any deputy customs, designated by the Attorney General under subsection (11), and

“(March 3, 1986)

“(February 20, 1986)

“(I) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court in any of the United States any civil remedy with respect to any claim for fraud in matters involving false claims against the United States under this subsection, such court to modify or set aside such demand.

“(3) the term 'false claims law investigation' means—

“(i) a false claims law investigation conducted by the Department of Justice under paragraph (2)(B) which has not been used in the case of any civil investigative demand under this section, or upon any constitutional or other legal right or privilege of such person.

“(4) 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 officer or employee of the United States acting under the direction and supervision of such attorney or investigator.

“(5) the term 'false claims investigation' means any action or investigation under a false claims law.

“(6) the term 'false claims material' includes the original or any copy of any book, record, account, or other document, correspondence, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information storage system and all other materials necessary to use or interpret such data compilations, and any product of discovery.

“(7) the term 'false claims law' includes the customs, or any deputy customs, designated by the Attorney General under subsection (11), and

“(9) the term 'false claims investigation' means any action or investigation under a false claims law.
Mr. STEVENS. I ask unanimous consent that the amendment not be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

AMENDMENT NO. 3214

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment with an amendment thereto, and I ask unanimous consent to the desk on behalf of Senator Grassley of Iowa.

The PRESIDING OFFICER. The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE

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

SEC. 2. FALSE CLAIMS

Section 3729 of title 31, United States Code, is amended by inserting "five"

Mr. STEVENS. I ask unanimous consent that the amendment not be read.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(1) by striking "in an armed force" and inserting "a member of an armed force";

(2) by striking paragraph (1) and inserting paragraph (A) and paragraph (B); and

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

SEC. 3. CIVIL ACTIONS FOR FALSE CLAIMS

Section 3730 of title 31, United States Code, is amended by inserting the following:

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to the Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(5) Rights of the Parties to Qui Tam Actions.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by the judgment or settlement of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (3). (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to the Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) Rights of the Parties to Qui Tam Actions.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by the judgment or settlement of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (3). (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to the Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

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court may limit the participation by the person in the litigation.

(3) If the Government elects not to proceed with an action, but provided that the claim shall be awarded against the defendant.

(2) If the Government does not proceed with an action, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessary in furthering the 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 such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

SEC. 6. FALSE CLAIMS PROCEDURE.

Section 3731 of title 31, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(c) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a United States court in a criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, no conviction for the benefit of the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730."

SEC. 4. FALSE CLAIMS JURISDICTION: CIVIL INVESTIGATIVE DEMANDS.

(a) In General.—Subchapter III of chapter 37 of title 31, United States Code, is amended by adding at the end the following new sections:

"3732. False Claims Jurisdiction

"(a) Actions under Section 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant resided or transacted business, or in which any act or omission occurred.

"(b) Claims Under State Law.—The district courts shall have jurisdiction over any action brought under the laws of any State or political subdivision thereof where the claim is predicated upon an act or omission of any officer, agent, employee, or other person acting in any official capacity, under color of State law, within the State or political subdivision.
§3733. Civil investigative demands

(a) IN GENERAL.—

(i) Service of demand.—Whenever the Attorney General has reason to believe that any person may be in possession of documentary material or information relevant to a civil investigation, the Attorney General may, before commencing a civil proceeding under section 3731 of this title, demand such documentary material or information from such person.

(ii) Service of demand upon the person from whom the material is demanded.—Except as provided in section 3731(f), a civil investigative demand may be served by any of the following means:

(A) Delivery of a copy of such civil investigative demand personally to the person from whom the material is demanded, or to any agent of such person, a person having knowledge of such person, a natural person, or as otherwise expressly authorized by this section.

(B) Serving a copy of such civil investigative demand, or any petition, by mail upon any natural person at the person's last known address if such person is an authorized officer, managing agent, or general partner of a partnership, or a person having knowledge of such person.

(C) Service of such civil investigative demand in any foreign country, or to a foreign national who is not a natural person, by the Attorney General or such Attorney General's designee, at any place within the territory of any country where the person is found, by a United States marshal or a consular officer of the United States, or by a diplomatic or consular official of any foreign country.

(D) The Attorney General may cause to be served, in any manner authorized by section 1733 of title 28, civil investigative demand upon any foreign national by a United States marshal of the district in which such person is found.

(b) ENFORCEMENT.—The Attorney General may enforce any civil investigative demand issued under this section by any of the following means:

(i) By action to compel the production of documentary material or information.

(ii) By action to compel the giving of oral testimony or written interrogatories.

(iii) By action for the recovery of costs and fees and by any other action respecting compliance with this section by any person that such court would have if such person were personally within the jurisdiction of such court.

(c) Service Upon Legal Entities and Natural Persons.—

(1) LEGAL ENTITIES.—Service of any civil investigative demand issued sub section (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity, in any manner authorized by section 1733 of title 28, by delivering a copy of the civil investigative demand or petition to the principal office or place of business of such entity.

(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

(A) Delivering an executed copy of such demand or petition to the person;

(B) Serving an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such person at the person's residence or principal office or place of business.

(d) Certification.—A verified return receipt by the individual serving any civil investigative demand issued under subsection (a) or any petition filed under subsection (j) shall be proof of service.

SEC. 3734. Civil investigative demands

(a) IN GENERAL.—Any 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 testimony if such material, answers, or testimony would be protected from disclosure under—

(1) a statute providing for the protection of trade secrets or confidential business information;

(2) any State law concerning public or corporate records, if the demand is made by a State agency or instrumentality.

(b) PROTECTION FROM DUPLICATION OF DEMANDS.—No civil investigative demand issued under subsection (a) or petition filed under subsection (j) may be assembled and made available to the true claims law investigator identified in such demand or such demand, or on such later date as the false claims law investigator may prescribe.
"(g) Interrogatories.—Each interrogatory
under this section shall be served sepa-
ately and fully in writing under oath and
shall be submitted under a sworn certificate,
in the form prescribed, by someone resi-
ding or transacting business in the place
where the examination is held.
(1) in the case of a natural person, the
person to whom the demand is directed,
or
(2) in the case of a person other than a
natural person, the custodian or person
resides, or transacts business, as the
United States within which such
person appears for oral testimony under a
civil investigative demand served under
this section shall be served before any
person appearing for oral testimony under a
civil investigative demand served under
this section shall designate a false claims law
investigator or other officer or employee in
connection with the taking of oral testimony
under this section.
"(c) Except as otherwise provided in this
subsection, no documentary material, an-
swers to interrogatories, or transcripts of
oral testimony, or copies thereof, while in
the possession of the custodian, shall be
available for examination by any individual
taken pursuant to a civil investigative
demand served under this section shall not
be answer to any question, such material,
answers, or transcripts shall not apply if con-
tested by the Attorney General to a United States
courts of the United States, or by any
representative of the Attorney General.
"(d) While in the possession of the custo-
dian and under such reasonable terms and
conditions as the Attorney General may
provide, the false claims law investigator
who is designated to appear before any
such court, grand jury, or Federal agency
in any such other proceeding shall be
available for examination by the person
who produced such material, answers, or
transcripts, and by or on behalf of such
person or any person in the course of any
Proceedings.—Whenever any attorney of the Department of Justice designated to appear before any
court, grand jury, or Federal agency in any
case or proceeding, the custodian of any
documentary material, answers to interro-
gatories, or transcripts of oral testimony
received under this section shall designate a
false claims law investigator as the
Attorney General determines from time to
time, and further in any such case or
Proceedings.—Whenever any attorney of the
Department of Justice, who is authorized
for such use under regulations which the
Attorney General shall issue, such material,
answers, or transcripts may be delivered by
such false claims law investigator or other
officer or employee in connection with the
taking of oral testimony under this
subsection.
"(9) WITNESS FEES AND ALLOWANCES.—Any
person appearing for oral testimony under a
civil investigative demand served under
this section shall be entitled to fees and
allowances which are paid to witnesses in
the district courts of the United States.
"(1) Designation.—The Attorney General
shall designate a false claims law investi-
gator to serve as custodian of documentary
material, answers to interrogatories, and
transcripts of oral testimony received under
this section as the Attorney General
determines from time to time to be
necessary to serve as deputys to the
investigator.
"(2) Responsibility for materials; dis-
closure.—(A) A false claims law investigator
who receives any documentary material,
answers to interrogatories, or transcripts of
oral testimony under this section shall trans-
mit such material, answers, or transcripts
for the use made of them and
the following:
"(6) Furnishing or inspection of transcript
by witness.—Upon payment of rea-
sable charges therefore, 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.
"(c) Conduct of oral testimony.—(A)
Any person compelled to appear for oral testi-
mony under a civil investigative demand
served under this section as the
Attorney General may, on application, make
such material, answers, or transcripts, or, in
the case of any product of discovery pro-
duced by any person in the course of any
Proceedings.—Whenever any attorney of the
Department of Justice, who is authorized
for such use under regulations which the
Attorney General shall issue, such material,
answers, or transcripts may be delivered by
such false claims law investigator or other
officer or employee in connection with the
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such material, answers, or transcripts, or, in
the case of any product of discovery pro-
duced by any person in the course of any
Proceedings.—Whenever any attorney of the
Department of Justice, who is authorized
for such use under regulations which the
Attorney General shall issue, such material,
answers, or transcripts may be delivered by
such false claims law investigator or other
officer or employee in connection with the
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closure.—(A) A false claims law investigator
who receives any documentary material,
answers to interrogatories, or transcripts of
oral testimony under this section shall trans-
mit such material, answers, or transcripts
for the use made of them and
the following:
false claims law investigation pursuant to a civil investigative demand under this section—

(A) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Person, corporation, association, or other entity involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced with respect to the person who produced such material, return to such person any such material other than copies furnished to the false claims law investigator under subsection (f)(2) or made for the Department of Justice under paragraph (2)(B) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(5) APPOINTMENT OF SUCCESSOR CUSTODIAN.—

(A) whenever a custodian is in custody or control of any documentary material, answers, or transcripts, the Attorney General shall promptly—

(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

(B) transmit to the person who produces such answers, transcripts, or testimony any notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under paragraph (A) shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or delinquency which occurred before that designation.

(6) APPOINTMENT OF SUCCESSOR CUSTODIAN.—

(A) whenever a custodian is in custody or control of any documentary material, answers, or transcripts, the Attorney General shall promptly—

(1) transmit to the person who produces such answers, or testimony, any notice of the identity and address of the successor so designated.

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Any person who is designated to be a successor under paragraph (A) shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or delinquency which occurred before that designation.

(2) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(3) JUDICIAL PROCEEDING.—

Any person who is designated to be a successor under paragraph (A) shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or delinquency which occurred before that designation.

(4) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

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(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

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(7) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(8) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(9) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(10) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(11) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.

(12) APPOINTMENT.—When any person fails to comply with any requirement of this section, or any written or oral request or directive issued under this section, the Attorney General shall immediately—

(A) designate another false claims law investigator to serve as custodian of any documentary material, answers, or transcripts, of any person, partnership, corporation, or other entity, or

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(c) 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.
be subject to a fine in the amount provided in this title".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

Mr. THURMOND. I would like to inquire of the principal sponsor of S. 1562, the distinguished Senator from Iowa, whether it is contemplated for the qui tam relator when the Government chooses to proceed in a fraud action in an administrative setting? It is my understanding that S. 1562 has limited the role that the qui tam relator retains the same rights available in the judicial action. Although the Senate compromised with the House concerning the qui tam's participation, both Houses of Congress clearly contemplated allowing for limitations on the qui tam's participation in judicial and administrative actions. The Senate and House agreed upon language which set out the limitations that a court could impose on a qui tam in civil actions when active participation by the qui tam could harm the proceeding.

Upon a showing by the Government that unrestricted participation during either an administrative or judicial proceeding of a qui tam would interfere with or unduly delay the action, the court may, in its discretion, impose limitations on the qui tam's participation. Additionally, an administrative judge has great discretion in an administrative proceeding to consider the cause of action in an expeditious fashion, and the legislation contemplates that administrative proceedings should be conducted with a minimum of undue delay or interference by qui tam relators.

Mr. THURMOND. I thank the distinguished Senator from Iowa.

Mr. HATCH. At this time I wish to commend the Senator from Iowa for his fine work in forwarding this important legislation and the Chairman of the Judiciary Committee, the Senator from South Carolina, for his role in working with Senator Grassley and me in molding a fair and effective resolution. Mr. President, I hope that the Senate will act on this issue at an early date.

Mr. GRASSLEY. I am grateful to the Members of the House of Representatives who participated in making this legislation possible. It is vitally important that we do something to check the increasing numbers of fraud against our Government. We are also grateful to the Members of the House of Representatives who participated in making this legislation possible. It is vitally important that we do something to check the increasing numbers of fraud against our Government. We are also grateful to the Members of the House of Representatives who participated in making this legislation possible. It is vitally important that we do something to check the increasing numbers of fraud against our Government. We are also grateful to the Members of the House of Representatives who participated in making this legislation possible. It is vitally important that we do something to check the increasing numbers of fraud against our Government. We are also grateful to the Members of the House of Representatives who participated in making this legislation possible. It is vitally important that we do something to check the increasing numbers of fraud against our Government.

The amendment of the House is printed in the Record of October 1, 1986, beginning at page H8816.

Mr. STAFFORD. Mr. President, the bill before the Senate at this time is one of the most important public health measures that we have considered. It is aimed at reducing the risk of asbestos-related disease for an estimated 15 million schoolchildren and 1.4 million school employees.

Asbestos is a deadly substance. An American Cancer Society, reflecting prevailing scientific opinion, testified that there is no known safe level of asbestos exposure and that efforts should be made to avoid even low-level exposure. Other expert witnesses testified that children are especially at risk because of their high respiratory rates, their growing lungs and other factors.

This bill enjoys the support of a wide variety of educational, public health, and governmental organizations. These include the Service Employees International Union of the AFL-CIO, the National Parent-Teacher Association, the American Federation of Teachers, the National Governor's Association, the National Association of Counties, and a host of others.

Mr. President, some of these groups have been active for some time in the struggle to protect schoolchildren and employees from asbestos exposure. In 1984, the Service Employees International Union (SEIU) brought suit against EPA to compel it to issue comprehensive regulations dealing with the asbestos problems in the Nation's schools. Information reviewed and developed during the lawsuit, SEIU v. EPA, No. 84-2790 (D.D.C.), demonstrated to the Senate, the EPA's asbestos program and the need for legislation requiring the agency to issue adequate and appropriate regulations regarding asbestos in schools. This legislation provides the same relief sought in the lawsuit.

In our deliberations on both the need for and the scope of this legislation we have been assisted by several groups which have provided valuable information on the dangers posed by asbestos in the Nation's schools, and the types of regulations which are required to address those dangers. Specifically, I would note the contributions of the Service Employees International Union, the National Education Association, the National Parent-Teacher Association, the American Federation of Teachers, and the National School Boards Association. SEIU was particularly helpful in that information which it obtained in its lawsuit against EPA to compel the Agency to issue asbestos regulations demonstrated the inadequacies of the EPA Asbestos Program, and the need for legislation obligating EPA to take appropriate regulatory action.

Mr. President, with the active support of these groups, similar versions of the present bill passed through the entire legislative process in both Houses of Congress without receiving a single dissenting vote. That is a remarkable achievement and it bespeaks the priority that Congress places on this important issue.

Mr. President, I want to note that we have reached agreement between the two Houses of Congress without the need for a formal conference committee. We achieved this by informally discussing the various issues involved with the House bill a substitute bill incorporating features of S. 2083 and H.R. 5073.