time, it is vital that litigants' rights be protected in accordance with established principles under the laws of administrative procedure and review. It is a difficult balance to find; and, as I see it, we are not quite there but we are making progress.

Before Superfund reauthorization reaches the floor for Senate action, there will be an opportunity for all interested groups to have their views and inputs considered so that we may strive for the best possible balance to obtain the dual objectives of cleaning up the environment and protecting litigants' rights to due process of law.

Four years after its inception, the Superfund Program has accomplished much in cleaning up hazardous waste sites. Remedial action has been started at over 160 locations. Depite EPA's accomplishments, the Office of Technology Assessment recently reported that over 10,000 sites still need attention. *In my home State of Pennsylvania*, there are numerous sites which present a threat to the public health in abandoned warehouses, near schools and homes, and in municipal landfills. Plainly, there is still a very long way to go.

Congress is determined to act this year to extend and improve this vital environmental legislation. It is apparent that the scope of Superfund will be expanded substantially, and its tax base will be broadened to assure adequate financing.

I have joined with many other Senators urging Senator DOLE, the distinguished majority leader, to schedule Superfund for floor action at the earliest possible date. The cleanup of the numerous hazardous waste sites in Pennsylvania and over the entire Nation requires our immediate and urgent attention.

Mr. President, I ask for your support and that of my colleagues in enacting this important reform which will expedite environmental cleanup while protecting important due process rights.

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

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

S. 1561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following new subsection:

"(l)(1) Any person may seek contribution from any other person who is liable or potentially liable under subsection (a), during or following any civil action under section 106 or under such subsection (a). Such claims shall be brought in accordance with section 113 and the Federal Rules of Civil Procedure, and shall be governed by Federal law. Nothing in this subsection shall diminish the right of any person to bring an action for contribution or indemnification in the absence of a civil action under section 106 or this section.

"(2) When a person has resolved its liability to the United States or a State in a judicially approved good faith settlement or judgment against such person, such person shall not be liable for claims for contribution regarding matters addressed in the settlement or judgment. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others to the extent of any amount stipulated by the settlement or judgment.

"(3) Where the United States or a State has obtained less than complete relief from a person who has resolved its liability to the United States or the State in a good faith settlement, the United States or the State may bring an action against any person who has not so resolved its liability. A person that has resolved its liability to the United States or a State in a good faith settlement may, where appropriate, maintain an action for contribution or indemnification against any person that was not a party to the settlement. In any action under this paragraph, the rights of any person that has resolved its liability to the United States or a State shall be subordinate to the rights of the United States or the State. Any contribution action brought under this paragraph shall be bought in accordance with section 113 and shall be governed by Federal law.".

By Mr. GRASSLEY (for himself, Mr. DECONCINI, and Mr. LEVIN):

S. 1562. A bill to amend the False Claims Act, and title 18, of the United States Code regarding penalties for false claims, and for other purposes; to the Committee on the Judiciary.

PENALTIES FOR FALSE CLAIMS

Mr. GRASSLEY. Mr. President, today I am introducing, along with my colleague from Arizona [Mr. DECONCINI], and my colleague from Michigan [Mr. LEVIN], the False Claims Reform Act of 1985.

This area of law is in desperate need of reform. We need only review the disturbing array of examples from the past several years of fraudulent use of taxpayer dollars to realize our Government is not able—and in too many cases not willing—to adequately protect the money entrusted it by its citizens.

Why the Government bureaucracy is, for whatever reason, unwilling to guard against or agressively punish fraud, is puzzling. But while we in Congress may not be able to legislate aggression on the part of investigators and prosecutors, we do have a very important responsibility to pursue a vigilant oversight of their activities.

What we can and should legislate is statutory assistance for those charged with protecting against fraud. This bill is intended to provide that assistance in three ways; by expanding enforcement tools, by strengthening deterrence, and by encouraging disclosure of fraud by private individuals.

For background purposes, I'd like to recount the history of the False Claims Act. In 1863, Abraham Lincoln recognized both the danger of government contractor profiteering and the need for private persons to become involved in its prevention when he signed into law the Federal False Claims Act. That act came in response to Civil War era horror stories that sound all too familiar, contractors selling boxes of sawdust in place of boxes of muskets, and reselling horses to the cavalry two and three times.

The False Claims Act allows an individual knowing of fraudulent practices to bring suit on behalf of the government and receive a portion of the recovery if the action is successful. Unfortunately, the teeth of President Lincoln's law were removed during World War II, and the provision has been little used since.

The main purpose behind the enactment of the False Claims Act of 1863—to encourage individuals to ferret out fraud against the government—is even more crucial today as the Government spends hundreds of billions of dollars on contracts with private corporations in areas such as defense, aerospace, and construction.

This False Claims Reform Act restores the incentive for individuals to come forward by establishing minimum award portions a prevailing whistleblower may receive, and by increasing that amount to 30 percent. Perhaps more important to persons who consider going public with their knowledge of fraud, is the added protective language assuring make whole relief for those suffering employer retaliation due to their disclosure.

Enforcement abilities will also be enhanced by this act with the establishment of a preponderance of evidence burden of proof in civil false claims cases as opposed to the more stringent clear and convincing burden. In addition, the act expands the scienter provision to include constructive as well as actual knowledge of a false claim.

In order to fully utilize all remedies available to the Government, the Reform Act will allow more information sharing among Justice Department attorneys, agencies, and Congress so that each branch is better able to assemble the information necessary to take appropriate action against violators of the False Claims Act.

The third major reform in this act increases deterrence by raising the civil forfeiture from $2,000 to $10,000 per claim. The original $2,000 amount has not been changed since 1883. In addition, damages payable to the Government would be increased from double to treble. In the criminal area, penalties would be raised to $1 million. The Senate passed these same increases earlier this year for false claims submitted by defense contractors.

Mr. President, the current fraud problems will not disappear by a wave of any magic fraud bill. But reform is desperately needed, and Congress must assume the responsibility.

Current law puts the Government at a critical disadvantage in fraud cases. Contractors have us over a barrel. Our choice is inexorably clear. If we like

being over a barrel, I would suggest we leave the law the way it is and instead grin and bear continued rapes and pillages of the Treasury. The alternative is true reform that shifts the advantage back to the Government where it belongs, and deals with fraud as those who elect us would expect. I urge my colleagues to cosponsor this bill as a very significant step toward repelling the current wave of fraud sweeping this country.

By Mr. HELMS (for himself, Mr. ABDNOR, Mr. DENTON, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. LAXALT, and Mr. NICKLES):

S. 1563. A bill to amend the Federal Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

TO STOP THE USE OF COMPULSORY UNION DUES FOR POLITICAL PURPOSES

● Mr. HELMS. Mr. President, today I am introducing legislation to halt a blatant violation of political freedom, the use of compulsory union dues for political purposes.

Federal laws give organized labor a special privilege enjoyed by no other private association—the right to take money from American workers as a condition of employment and to contribute that money to political causes and candidates the workers themselves may not necessarily support.

Federal labor laws grant union officials the power to require a person to pay dues as a condition of getting and keeping a job. Under this unique grant of special privilege, unions collect an estimated $3.5 billion a year from individuals who have to pay up or risk being fired.

The Federal Election Campaign Act, as amended in 1976, gives the appearance of restricting the use of compulsory union dues for political purposes. The law prohibits the use of compulsory dues for direct cash contributions to political candidates. It does not, however, prohibit the use of forced union dues for a number of other indirect means of supporting union-backed political candidates and causes.

In light of this dichotomy created by Federal legislation, union officials have divided their political expenditures into two categories. The first is commonly referred to as union hard money. It consists of money given directly to candidates in the form of cash or in-kind contributions taken from funds given voluntarily by union members. The second category is referred to as union soft money, spent by union officals on behalf of—but not contributed directly to—political candidates.

Soft money comes directly from compulsory union dues. It finances the operations of union PAC's and provides extensive in-kind political services. While it represents the overwhelming bulk of union political expenditures, it is neither documented nor reported to the FEC.

A relatively small portion of the millions of dollars in soft compulsory union dues money is used to operate the union PAC's. This portion pays the salaries of numerous full-time union political operatives across the Nation. It provides PAC supplies, finances mass mailings and travel expense accounts, and purchases sophisticated office machinery and computers.

Mr. President, even voluntary PAC contributions from union members originate with this compulsory dues soft money. Compulsory dues bankroll the administrative overhead costs of union partisan political fundraisers. Compulsory dues soft money used for financing union PAC's runs well into the millions every year. In July 1976, AFL-CIO public relations director, Bernard Albert, admitted that the annual budget of the national COPE alone ran to approximately $2 million.

In spite of the vast sums of compulsory union dues that finance the operating costs of union PAC's, the bulk of compulsory dues soft money goes for unreported, unlimited in-kind political expenditures.

The July 1979 issue of Steelabor, the official newspaper of the United Steelworkers of America, offered its readers a surprisingly candid and straightforward explanation of in-kind political spending. Union dues money, reported the union paper,

* * * can't go for direct political contributions—but it can do a lot: mailings supporting or opposing political candidates, phone banks, precinct visits, voter registration, and get-out-the-vote drives.

In spite of these admissions, Steelabor's account only tells half of the story. To fill out the picture, several key expenditures need to be added to the list: Weeks, thousands of union employees devoted almost solely to partisan politics; election day workers, paid overtime rates from compulsory dues; millions of political pamphlets and flyers; and paid election-day carpools and babysitters, to name a few.

Mr. President, once again, these indirect union in-kind political expenditures are not subject to any limitations under the FECA. They are paid for with dues money taken from workers as a condition of employment. And without question they represent the overwhelming bulk of union political expenditures.

Fortunately, the courts begun to address this problem. Most recently, Mr. President, the Supreme Court ruled in favor of workers in the case of Ellis/Falls versus Brotherhood of Railway, Airline and Steamship Clerks.

The Ellis/Falls case grew out of a collective bargaining agreement negotiated between Western Airlines and the Brotherhood of Railway, Airline and Steamship Clerks (BRAC) in 1971. Effective February 1971, all employees in BRAC's bargining union were required either to join the BRAC union or pay agency fees equal to full union dues.

BRAC officials forwarded portions of these dues to the State and national unions, used them for lobbying activities, made political contributions, administered members-only benefit plans, and took part in other activities unrelated to collective bargaining. Nonmember employees were opposed to several of the political and ideological activities supported by BRAC officials, yet were forced to finance them through the payment of agency fees. They filed a class action suit against BRAC employers.

The suit charged that BRAC officials had violated the Railway Labor Act (RLA) by charging agency fees above the amount needed to cover the nonmembers' share of collective bargaining costs. This practice violated the employees' rights as guaranteed under the first, fifth, and ninth amendments to the U.S. Constitution and under the RLA, and constituted a breach of the union's duty of fair representation for all members of the bargaining unit.

The suit also charged that BRAC's dues reduction procedure breached the union's duty of fair representation because of its arbitrary nature, because it offered only a small reduction of the total amount of nonbargaining spending, because it was not available to nonmembers, and because it was denied to members who had properly submitted objections.

Mr. President, the relief sought included a return by the union of all compulsory dues money improperly spent, injunctive relief imposing stringent requirements as to the purposes for which the union lawfully could spend future dues, and the recovery of attorneys' fees.

BRAC officials responded to the suit with two actions. They dropped the compulsory membership requirement, allowing employees to become agency fee-payors instead, and they amended their rebate scheme to provide a few more political expenditure rebates. The determination of the refund was entirely in the hands of BRAC officials, however, and was appealable only to a panel handpicked by BRAC.

In 1976, a U.S. district court ruled that protesting nonmember employees could not be forced to support financially the BRAC union's political and ideological activities, listed 12 other categories nonmembers could not be forced to support, such as lobbying, organizing, conventions, publications, and social activities.

In September 1982, the Ninth Circuit Court of Appeals reversed the rule that nonpolitical activities not essential to bargaining could not be charged to nonmembers, and affirmed the approval of BRAC's internal rebate scheme.

A petition to the Supreme Court of the United States was filed in January 1983 and the Court agreed in April to hear the case. Oral arguments were held in January 1984.