

UNITED STATES

Congress



OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 94<sup>th</sup> CONGRESS  
SECOND SESSION

VOLUME 122—PART 13

MAY 25, 1976 TO JUNE 3, 1976

(PAGES 15251 TO 16632)

falo, Town of Amherst, and County of Erie have demonstrated their strong desire for the construction of a rapid transit system in that portion of the state; and

"Whereas, In 1971 and again in 1975 this Legislature has demonstrated its support for rapid transit serving the Buffalo-Amherst 'Corridor' through its appropriation of a total of \$102,000,000 to be used for mass transit by the Niagara Frontier Transportation Authority; and

"Whereas, The Niagara Frontier Transportation Authority, in full cooperation with, and enjoying the total support of, the New York State Department of Transportation has proceeded to fulfill every requirement for funding assistance for such a line imposed by the Federal government; and

"Whereas, Officials of the Federal government have publicly commented that there was not, 'one thing which NFTA should be doing that it is not doing,' and that the 'community spirit and the solidarity of support shown for the Buffalo rail project' was widespread and impressive; and

"Whereas, Despite all of this support, the Federal government has still required further detailed studies of the feasibility of this line, as well as of suggested 'alternatives,' all of which have caused delay, leading to greatly increased costs; and

"Whereas, On February 17, 1976 the Board of the Niagara Frontier Transportation Authority unanimously approved a final application for two hundred sixty-nine million dollars in Federal capital funding to construct 6.4 mile light-rail line serving the Buffalo-Amherst "Corridor"; and

"Whereas, The people of Erie County and the entire state, as represented in this Legislature and in the Congress of the United States, have strongly demonstrated their support for a rapid transit line in this area many times over; now, therefore, be it

"Resolved, That the Legislature fully supports the construction of a rapid transit line in the Buffalo-Amherst "Corridor" and currently desires that the actual construction of such a line commence at the earliest possible date; and be it further

"Resolved, That the Legislature commends the action taken by the representatives in the Congress of the United States of this State in support of such a rapid transit line; and be it further

"Resolved, That the Legislature urges the Federal government, acting through the United States Department of Transportation, and the Urban Mass Transportation Administration, to add their support to this rapid transit line by approving the recent application for Federal funds for the construction of this line as endorsed by the Niagara Frontier Transportation Authority on February 17, 1976; and be it further

"Resolved, That the Legislature respectfully memorializes the Congress of the United States to facilitate the construction of the Buffalo-Amherst Line by appropriating funds sufficient for its construction; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of the United States Department of Transportation, the Urban Mass Transportation Administrator, and to each member of the Congress of the United States from the State of New York."

#### FINAL REPORT OF THE SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND DELEGATED EMERGENCY POWERS—REPT. NO. 94-922

Mr. MATHIAS submitted the final report of the Special Committee on National Emergencies and Delegated Emer-

gency Powers, which was ordered to be printed.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time and referred as indicated:

By Mr. MONDALE (for himself, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 3506. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries and for other purposes. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 3507. A bill for the relief of Adela A. Naclón. Referred to the Committee on the Judiciary.

#### STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONDALE (for himself, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 3506. A bill to authorize the construction of a lock and dam project on the Mississippi River near Alton, Ill., to revoke authority for 12-foot channel studies on the upper Mississippi River and its tributaries, and for other purposes. Referred to the Committee on Public Works.

Mr. MONDALE. Mr. President, I am today introducing a bill, cosponsored by Senators HUMPHREY and MCGOVERN to correct several of the most serious deficiencies in the management of the Upper Mississippi River System.

The bill would authorize construction of a single new lock and dam at Alton, Ill. It would preclude by law a 12-foot channel on the Mississippi River. It would establish a long overdue planning process to reconcile the various Federal management objectives on the river, with guidelines for channel maintenance, protection of environmental and recreational values and mechanisms for enforcement. Finally it would put a ceiling on existing traffic capacity of the Upper Mississippi River and freeze all other new construction projects that might increase the capacity of the system until the master plan and guidelines had been approved by the Congress.

Our proposal recognizes that there are currently several competing and often conflicting objectives of the Federal Government on the Mississippi—maintenance of commercial navigation, environmental protection and provision of public recreational opportunities. All of these objectives are legitimate but, in my opinion, none are being adequately achieved. Traffic delays on the Upper Mississippi are resulting in millions of dollars each year in unnecessary costs that must ultimately be borne by shippers and consumers of farm commodities, coal, fertilizer, and petroleum products. At the same time significant and, to a great extent, avoidable damage to the environment is occurring as a result of present channel operation and maintenance activities.

Methods must be found to prevent de-

struction of wildlife habitat and water quality, without closing down the river to further navigation. The Upper Mississippi transportation system is simply too important to the economy of the Upper Midwest to be crippled by neglect or inefficiency.

Let us look at the facts. Agricultural commodities, including grain and fertilizer, comprise nearly half of the total cargoes shipped by river. Another 35 percent is composed of energy products such as coal, gasoline and residual fuels. The remainder is divided among a variety of other bulk commodities—steel, and sand gravel, salt and molasses.

A major share of the agricultural commodities transported on the river system are corn, soybeans and wheat destined for export from the Louisiana Gulf ports. In 1973, Minnesota's shipments alone had an export value of more than \$500 million, representing roughly half of the State's total agricultural exports. Barge shipments from the region served by the Upper Mississippi River, represent more than 40 percent of America's total corn exports, 30 percent of all soybeans exports and about 10 percent of the Nation's wheat exports.

Even assuming that adequate capacity existed to move these commodities to market by alternate modes of transportation, the loss of commercial navigation would cost farmers in Minnesota alone a minimum of \$45 million per year in increased freight charges for transportation of grain. A typical farmer in Lake Crystal, Minn., with 200 acres of corn for export, would lose over \$3,000 in net income per year, if deprived of the opportunity for barge transportation. Lake Crystal is one of the 40 Minnesota communities out of more than 700 with grain elevators that has unit train loading facilities. If a farmer with a comparable crop from Tracy, Minn., were denied the opportunity for barge transportation, he would lose over \$4,000 in annual income. The farmer's losses would be substantially higher because Tracy—like most Minnesota farm communities—is not served by unit rail.

The Mississippi River is nearly as important to the energy supply of the Upper Midwest region as it is to agriculture. Barge shipments of coal provide the electrical energy for over 3 million residents of the Upper Mississippi River basin area. In addition, 30 percent of the primary movement of petroleum products in the region is dependent upon barge transportation.

There is no question but that the river and the system of locks and dams for operation of the channel are a vital transportation link for farmers and communities in the Upper Midwest. The efficiency and cost of this system in turn have direct bearing on fuel bills paid by homeowners.

Unfortunately, conflicts are becoming more and more apparent between commercial and other uses of the riverway. Degradation of environmental values has all too frequently occurred as a result of poorly conceived off-channel fleet-ing, dredging and spoil disposal practices. These problems are not inevitable, given more adequate planning, research and

funding to deal with the environmental needs of the river system. But there is no question that they will become more severe as traffic expands unless better management techniques are adopted.

The focal point of the controversy over management of the Upper Mississippi River is the future of lock and dam 26 at Alton, Ill. River users rightly complain that the present facility at Alton is outmoded, inefficient and structurally unsound. They point to average delays of up to 9 hours per tow at lock and dam 26 costing millions of dollars each year.

Only a few weeks ago a shutdown of the locks at Alton, Ill. led to a 10-day backup of traffic while repairs were carried out. During this period barge transportation rates increased by almost 20 percent, with total costs to farmers estimated at tens of millions of dollars.

Originally the Corps of Engineers sought to replace the existing structure at lock and dam 26 with two 110 by 1,200 foot locks. This proposal was heavily criticized by environmental leaders and other Federal agencies and construction was ultimately enjoined by the courts.

In opposing construction of the new lock and dam, environmental leaders raised two primary concerns—first that building the facility would be the opening wedge in an alleged corps' effort to build a 12-foot channel on the upper Mississippi, and second, that operation and maintenance activities, even at current traffic levels are resulting in significant environmental damage. They maintain that the existing lock and dam should be repaired rather than replaced.

Two years ago, I joined with Senator NELSON in urging that any authorization of the lock and dam 26 project be deferred until there had been an opportunity for congressional review and public hearings. Since then, there has been sufficient time to evaluate the various aspects of this issue. The corps has also greatly scaled down its original proposal, by eliminating one of the proposed new locks.

In my judgment there are now three critical questions that must be answered: First, is the new structure needed; second, could it be a first step toward a 12-foot channel on the river; and third, would traffic levels exceed the point where environmental quality and a balance transportation system in the river region could be sustained?

The threshold question is whether the new facility is needed. I believe that there is ample evidence to show that it is. Studies reveal that the original facility at Alton was constructed in an area of extremely unstable bottom material. The result is a constant shifting in the foundation of the structure that causes periodic cracking of the dam and wrenching of the locks. No amount of repair, short of building a deep, permanently cemented pool, could prevent these problems from recurring. In the interim a duplicate lock would have to be constructed to handle traffic while repairs were being carried out. Thus the cost for repair of the existing lock and dam 26 would be nearly equal to that of building an entirely new facility, but the

resulting lock and dam would be far less efficient and more costly to operate.

The second question is whether a new lock and dam would be the first step toward a 12-foot channel on the Upper Mississippi. Given the degradation resulting from operation and maintenance of the existing channel, I believe a 12-foot channel would be an ecological disaster for the Upper Midwest. But with or without a new lock and dam at Alton, there is only one way to make sure that there will be no 12-foot channel on the Upper Mississippi, and that is to repeal all existing authority for feasibility studies leading toward a 12-foot channel and to provide that such authority may not be reinstated except by act of Congress. That is what this bill proposes to do and, short of a constitutional amendment, it is the best protection available against a 12-foot channel on the river.

Third, there is the question of traffic levels on the Upper Mississippi, and what tonnage volumes can be permitted consistent with the need to protect environmental quality and to promote a balanced transportation system in the region. There are no easy answers to this question. In part, the solution will depend upon what rules and guidelines are in effect to protect fish and wildlife, water quality and related values. In part, it will also depend upon projected transportation demands and the ability of all transportation modes to serve the region in an economical and efficient fashion. If thorough studies are conducted, up to 5 years might be required to collect and analyze the necessary data, prepared the rules and recommend an appropriate management strategy.

Environmental spokesmen have suggested that replacement of lock and dam 26 be postponed until all of this systemwide analysis has been completed. In my judgment, such a delay is neither necessary nor consistent with the environmental and economic interests of the region. Delay would not alter the natural bottom conditions that are responsible for structural problems at lock and dam 26. Instead, it would merely add to the costs of the new facility that will have to be built, an increase of an estimated \$130 million in inflation costs alone over the 5-year period.

There is a much more reasonable way to meet the concern over future traffic levels on the Mississippi River. This could be done by placing a statutory ceiling on navigation tonnage equal to the present maximum capacity of 73 million tons until the necessary studies and planning had been carried out. In addition, a freeze would be in effect on any other new construction that would add to system capacity until a master plan with appropriate guidelines and mechanisms for enforcement had been approved by the Congress.

It has been alleged that construction of a new lock and dam would result in the loss of 25,000 jobs in the railroad industry and the demise of the rail system of the Upper Midwest. These allegations are totally misleading. They are based upon the assumption of duplicate locks extending up and down the river—

a step specifically prohibited by the bill we are offering today. Only after studies had been carried out by the Department of Transportation and a master plan was prepared and approved by the Congress could there be any increase whatsoever in the maximum present capacity of the navigation channel.

The Midwest region must have an efficient and competitive transportation network. The best way to promote such a system is not to mandate an inefficient navigation channel. In fact, the presence of commercial navigation on the Mississippi has encouraged greater efficiencies in our rail service, including the use of unit trains and jumbo hoppers.

To a large extent the future of lock and dam 26 has become a symbolic issue. Spokesmen for commercial navigation have sought to define the issues in terms of transportation efficiency, regardless of potential environmental impacts. Spokesmen for environmental interests have sought to define the issue in terms of possible environmental impacts, even if it means permanently mandating an inefficient transportation system.

I believe that it is possible to have a navigation system on the Upper Mississippi that is both efficient economically and responsive environmentally. In fact, by applying funding that would otherwise be absorbed in delay costs, it is possible to purchase improved equipment for dredging and spoil disposal that could better protect water quality and avoid destruction of wildlife habitat. A computerized resource inventory and analysis system could also be developed to weigh the effects of alternative management strategies on the river environment. These are among the principal objectives of the bill we introduce today.

I believe it is long past the time that we recognize that navigation and fish and wildlife and recreational interests must coexist on the riverway even though they do not always coincide. Until now the Congress has never really addressed conflicts that are so clearly apparent in the mandates we have given to the Corps of Engineers, the Fish and Wildlife Service, and the Environmental Protection Agency. The result has been chaos. Frustrated citizens and State agencies have thus been increasingly turning to the courts for an interpretation of congressional intent.

Court injunctions can highlight management problems on the Mississippi River. They can provide time so that a reasonable solution can be achieved. But court injunctions cannot solve the basic problems of the river system, either environmental or economic. Solutions to these problems must come from the Congress.

The proposal we offer today is intended to address an immediate problem of commercial navigation on the riverway. But it does much more than that. It establishes a framework wherein a balanced plan, taking into account the commercial environmental and recreational objectives of the Federal Government on the Mississippi River system can be implemented. Our goal is to ensure that this river is used in a manner

that is consistent with the economic needs of the Upper Midwest, but in a manner that also insure protection for fish and wildlife and for the recreational advantages of this magnificent resource. The Mississippi River is an economic and environmental asset of unsurpassed value to the Upper Midwest. I believe this bill can help assure that it remains so.

Mr. President, I ask unanimous consent that the full text of my bill and a section-by-section analysis be printed at this point in the RECORD.

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

S. 3506

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to commence replacement of Locks and Dam 26, Mississippi River, Alton, Illinois, by constructing a new dam and 110 foot by 1,200 foot main lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated March 15, 1976.*

Sec. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in the first section, terrestrial wildlife habitat inundated as a result of the construction of the project on an acre for acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Corps for wildlife mitigation purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp and a beach, at an estimated first cost of \$2,750,000.00 to be cost shared with the State of Missouri and administered in accordance with the provisions of the Federal Water Project Recreation Act (P.L. 89-72) and undertaken independently of the navigation features of the project.

Sec. 3. Nothing in this Act shall be construed as authorizing a twelve-foot channel above Alton, Illinois. Any authority for the Secretary of the Army to study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; St. Croix River, Minnesota and Wisconsin; and in the Mississippi River north of its juncture with the Illinois River, Illinois, beyond their present limits is hereby withdrawn and may be reinstated only if specifically authorized by a future Act of Congress.

Sec. 4. (a) The Congress hereby authorizes and directs the preparation of a master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission in cooperation with appropriate Federal, State and local government agencies. A preliminary plan shall be prepared by January 1, 1981, and shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings, shall make any appropriate revisions in the preliminary plan and shall, by July 1, 1981, submit a final master plan to Congress for approval. Approval of the final master plan shall be granted only by enactment of a joint resolution of the Congress.

(b) The master plan authorized under subsection (a) of this section, shall identify the various economic, recreational and en-

vironmental objectives of Federal, State and local agencies responsible for administration of the Upper Mississippi River, recommend guidelines to achieve such objectives and propose methods to ensure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) The Commission is authorized to carry out such studies, including the acquisition and testing of equipment for improved dredging and spoil disposal, as it deems necessary to carry out its responsibilities under this section, and may request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to carry out any such study for the purpose of this section. With respect to economic studies and intermodal transportation analysis carried out under this section, the Department of Transportation shall be considered the primary agency for such a study, with the cooperation of the Department of the Army, the Department of Agriculture and any other agencies that the Commission deems appropriate. Studies carried out pursuant to this section shall include, but not be limited to, the following:

(1) studies concerning the environmental effects of present and projected traffic levels, including the impact of any new navigation-related construction activities upon fish and wildlife, water quality, wilderness and public recreational opportunities, including a specific analysis of the environmental effects of construction of a second lock and dam at Alton, Illinois.

(2) studies concerning the economic impacts of present and projected traffic levels, including an analysis of alternative methods for meeting future intermodal bulk commodity transportation needs of the regions served by the Upper Mississippi and Illinois Rivers and a specific evaluation of the economic effects and demand for a second lock and dam at Alton, Illinois;

(3) studies and demonstration programs including acquisition of a new dredge and spoil disposal to evaluate the equipment effectiveness of improved dredging and other equipment in minimizing the environmental effects of channel operation and maintenance activities;

(4) development of a computerized analytical inventory and analysis system by the United States Fish and Wildlife Service for the Upper Mississippi River, to facilitate evaluation of the comparative environmental effects of alternative management proposals; and

(5) such other studies as the Commission deems necessary.

(d) The Commission shall, in preparation of the master plan, utilize to the fullest extent possible the resources and results of the Upper Mississippi River Resource Management (GREAT) Study. Such study shall hereafter be funded in accordance with the provisions of subsection (h) of this section.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, barge fleetings, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation and management of the Upper Mississippi Wildlife and Fish Refuge and the Mark Twain National Wildlife Refuge.

(f) Except for the provisions of the first section of this Act, and necessary operation and maintenance activities, no rehabilitation, replacement or construction of duplicate locks and dams shall be undertaken by the Secretary of the Army that will increase the present traffic capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been

approved by Congress and the President. Following approval of the master plan, construction of a second lock and dam at Alton, Illinois, shall be initiated only by Act of Congress and all other construction activities of the Secretary on such system shall be initiated only in accordance with the guidelines set forth in the master plan.

(g) Until such time as the master plan provided for in this section receives final approval by the Congress and the President, there shall be a maximum annual ceiling on navigation tonnage at lock and dam 26 of 73 million tons.

(h) To carry out the provisions of this section, there are authorized to be appropriated to the Commission \$20,000,000, of which \$4.4 million shall be reserved for expansion and completion of the Upper Mississippi River Resource Management Study. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

Sec. 5. There is authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of Sections 1 and 2 of this Act. Any funds which have been allocated to a replacement project for Lock and Dam No. 26 prior to the enactment of this Act shall be available for the project authorized in the first section of this Act and shall remain available until expended.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Authorizes replacement of lock and dam 26 at Alton, Illinois with a new dam and a single 110 by 1200 foot main lock.

Sec. 2. Directs replacement on an acre-for-acre basis of wildlife habitat inundated as a result of the project, with public access and recreational facilities to be provided by the Corps of Engineers on a cost-sharing basis with the State of Missouri.

Sec. 3. Repeals all existing authority for studies by the Secretary of the Army of the feasibility of deepening the navigation channels on the Upper Mississippi, Minnesota, Black and St. Croix Rivers and provides that any such authority may be reinstated only by specific Act of Congress.

Sec. 4. Requires preparation by July 1981 of a master plan for the Upper Mississippi River by the Upper Mississippi River Basin Commission in cooperation with appropriate federal, state and local government agencies. The plan would—

Identify the economic, environmental and public recreational objectives of all government agencies with management responsibilities on the Mississippi River;

Recommend guidelines to ensure that such objectives are achieved, including guidelines for channel maintenance, minimization of dredging volumes, barge fleetings, protection of water quality, fish and wildlife protection and enhancement and wilderness protection;

Propose methods to ensure enforcement of the guidelines and coordination of future management policies affecting the Upper Mississippi; and

Recommend any new legislation that may be necessary to carry out the objectives and recommendations of the master plan.

Authorizes studies to be undertaken by the Commission in cooperation with appropriate government agencies and with the ongoing Upper Mississippi Resource Management (GREAT River) Study, including—

Environmental analyses of present and projected traffic levels, including the impact of a second lock and dam at Alton, Illinois;

Economic and intermodal bulk commodity transportation analyses of the impacts of present and projected traffic levels, to be directed by the Secretary of Transportation in cooperation with the Secretary of the Army, Secretary of Agriculture and other appropriate agencies (such analyses to include

an evaluation of the impact of a second lock and dam at Alton, Illinois);

Acquisition and demonstration of advanced equipment for dredging and deposit of spoil material so as to minimize the environmental effects of routine operation and maintenance activities; and

Develop, by the Fish and Wildlife Service, of a computerized analytical inventory and analysis system to facilitate evaluation of the comparative environmental effects of alternative management strategies.

Forbids any additional new construction (other than the 110 by 1200 foot lock and dam at Alton authorized in Section 1) that would increase the traffic capacity of the Upper Mississippi River System until the master plan has been approved by Act of Congress, and prohibits such construction thereafter except in accordance with the master plan. Provides that construction of a second lock and dam at Alton, Illinois could be initiated only by Act of Congress. Establishes a maximum annual ceiling on navigation tonnage at lock and dam 26 of 73 million tons (present capacity of the Upper Mississippi River System) pending Congressional approval of the master plan.

Authorizes \$20 million for the studies, planning and acquisition and demonstration of equipment authorized by this section.

Sec. 5. Authorizes funds necessary for construction of the new lock and dam at Alton, Illinois pursuant to section 1 of this Act.

ADDITIONAL COSPONSORS

S. 2387

At the request of Mr. BAYH, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2387, the Petroleum Industry Competition Act, as amended.

S. 3222

At the request of Mr. DURKIN, the Senator from South Dakota (Mr. Abourezk), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Huddleston), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 3222, to amend the Veterans Readjustment Benefits Act.

AMENDMENT NO. 1639

At the request of Mr. FORB, the Senator from Mississippi (Mr. Eastland), the Senator from West Virginia (Mr. Randolph), the Senator from South Carolina (Mr. Thurmond), and the Senator from Wyoming (Mr. McGee) were added as cosponsors of amendment No. 1639, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

SENATE RESOLUTION 454—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE SENATE REPORT ENTITLED "FRAUD AND ABUSE AMONG CLINICAL LABORATORIES"

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself, Mr. PERCY, Mr. WILLIAMS, Mr. CHURCH, Mr. MUSKIE, Mr. KENNEDY, Mr. PELL, Mr. EAGLETON, Mr. TUNNEY, Mr. MONDALE, Mr. CHILES, Mr. CLARK, Mr. BROOKE, Mr. BEALL, Mr. DOMENICI, Mr. BROCK, and Mr. BARTLETT) submitted the following resolution:

S. RES. 454

Resolved, That there be printed for the use of the Special Committee on Aging 4,500

additional copies of its report to the Senate entitled "Fraud and Abuse Among Clinical Laboratories" (Senate Report 94—).

Mr. MOSS. Mr. President, I submit a resolution which would authorize the printing of additional copies of the report "Fraud and Abuse Among Clinical Laboratories" prepared by my Subcommittee on Long-Term Care of the Senate Special Committee on Aging.

Mr. President, this report is the result of a 6-month investigation by the staff of the Committee on Aging and Chicago's Better Government Association. Senator CHARLES PERCY, Senator PETE V. DOMENICI, and I were directly involved in this effort. The report documents that kickbacks are widespread among the medical laboratories and that the quality of testing can be far from adequate.

As a result of this investigation, those who offered us illegal kickbacks have been brought to the bar of justice and new tougher laws have been enacted by the Congress. The Clinical Laboratories Improvement Act of 1976, passed the Senate on April 29 by a wide margin incorporating new Federal standards for medical labs, providing Federal inspectors with access to the financial data of labs and making the offering or receiving of lab kickbacks a felony punishable by 3 years in jail and a \$10,000 fine.

I am pleased to make copies of this report available to the Members of the Senate and House and intend personally to send a copy to each State Governor. I think we should all be alerted to the possibilities for defrauding the medicare program. The public is looking to us to protect the integrity of public funds.

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST IMPROVEMENTS ACT—H.R. 8532

AMENDMENT NO. 1727

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment is purely technical. It would conform the title of the act passed by the House (H.R. 8532) to the title of S. 1284 as reported by the Senate Judiciary Committee if the pending Hart-Scott substitute amendment is adopted. I hope it can be accepted.

AMENDMENT NO. 1728

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, a number of my colleagues have expressed concern over the lack of an express exemption from the Freedom of Information Act for material and information furnished the Department of Justice pursuant to its civil investigative authority under title II.

The point was raised in committee, and the committee concluded that existing law already contains such an exemption. The question has persisted, however, and my distinguished colleagues have asked me to allay their fears by expressly providing such an exemption.

This amendment expressly provides such exemption.

AMENDMENT NO. 1729

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment is in the nature of a committee perfecting amendment, and I hope we can consider it en bloc. It has three parts.

The first part of the amendment is purely technical and adds a new section 307 to the bill.

For years and years, the antitrust bar has been referring to the antitrust laws by short titles: the Clayton Act, the Sherman Act, the Webb-Pomerene Act, the Wilson Tariff Act, the Robinson-Patman Act, and the Federal Trade Commission Act. The 93d Congress enacted legislation adopting short titles for the Robinson-Patman and Federal Trade Commission Acts. This amendment adopts the other four commonly used short titles and gives them the force of law by inserting them in the appropriate statutes.

The second part of the amendment is purely technical. It conforms one provision of the bill—a provision adopted in committee by amendment—to the requirements of the Congressional Budget Act of 1974. In accordance with section 401(b) (1) of that act, the amendment merely sets the commencement of the new fiscal year—October 1, 1976—as the earliest date upon which the Department of Justice is authorized to incur new obligations to carry out new section 3(k) (5) of the Antitrust Civil Process Act, as amended by section 201(k) of this bill. I thank the distinguished chairman of the Budget Committee (Mr. MUSKIE) and his staff for calling this oversight to our attention.

The third part of the amendment addresses a technical inconsistency in subsection (f) of title V's premerger penalty provisions. Subsection (f) (1) limits the penalty for failing to comply with title V's premerger provisions to violations of subsection (a) only. Application of the penalty provision for failure to comply with the notification provisions of subsection (b) was inadvertently omitted, and the penalties for failing to comply with subsection (c) is referenced to the penalties set forth in the Antitrust Civil Process Act and the Federal Trade Commission Act.

This part of the amendment clarifies these seeming inconsistencies by deleting the reference in subsection (f) (2) to the Antitrust Civil Process Act and the Federal Trade Commission Act, and by making clear that the penalty provision of subsection (f) (1) applies to all violations of section 7A. That the inherent equity power of a court to prevent or remedy violations of section 7A is not being restricted is also made clear by the addition of a new subsection (f) (2).

AMENDMENT NO. 1730

(Ordered to be printed and to lie on the table.)

Mr. PHILIP A. HART. Mr. President, this amendment limits the provisions of the bill affording access to grand jury documents and transcripts.

It limits such access to cases in which the Government has filed a criminal case and a defendant has entered a plea of guilty or of nolo contendere. Even in such