

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. SANTORUM. MR. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "FDA Modernization Act: Implementation of the law" during the session of the Senate on Thursday, October 21, 1999, at 10:00 a.m.

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

SPECIAL COMMITTEE ON THE YEAR 2000
TECHNOLOGY PROBLEM

Mr. SANTORUM. MR. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 21, 1999 at 9:30 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. SANTORUM. MR. President, The Committee on the Judiciary Subcommittee on Immigration requests unanimous consent to conduct a hearing on Thursday, October 21, 1999 beginning at 2:00 p.m. in Dirksen Room 226.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. SANTORUM. MR. President, I ask unanimous consent that the Committee on Finance, Subcommittee on International Trade be permitted to meet on Thursday, October 21, 1999 at 2:00 p.m. to hear testimony on the WTO Ministerial Meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. MR. President, The Committee on the Judiciary requests consent to conduct a markup on Thursday, October 21, 1999 beginning at 10:00 a.m. in Dirksen Room 226.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC
PRESERVATION AND RECREATION

Mr. SANTORUM. MR. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 21, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 1365, a bill to amend the National Historic Preservation Act of 1966 to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation, and for other purposes; S. 1434, a bill to amend the National Historic Preservation Act to reauthorize that Act, and for other purposes; H.R. 834, an Act to extend the authorization for the National Historic Preservation Fund, and for other purposes.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND
SPACE

Mr. SANTORUM. MR. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 21, 1999, at 2:30 p.m. on the National Technical Information Service.

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

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

On October 20, 1999, Mr. HATCH, for himself and Mr. LEAHY, introduced S. 1754. The text of the bill follows:

S. 1754

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the "Denying Safe Havens to International and War Criminals Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS

Sec. 1. Extradition for the offenses not covered by a list treaty.

Sec. 2. Technical and conforming amendments.

Sec. 3. Temporary transfer of persons in custody for prosecution.

Sec. 4. Prohibiting fugitives from benefiting from fugitive status.

Sec. 5. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 6. Transit of fugitives for prosecution in foreign countries.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Sec. 1. Streamlined procedures for execution of MLAT requests.

Sec. 2. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 1. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 2. Establishment of the office of special investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 1. EXTRADITION FOR OFFENSES NOT COVERED BY A LIST TREATY.

Chapter 209 of title 18, United States Code, is amended by adding at the end the following:

“§ 3197. Extradition for offenses not covered by a list treaty

“(a) SERIOUS OFFENSES DEFINED.—In this section, the term ‘serious offense’ means conduct that would be—

“(1) an offense described in any multilateral treaty to which the United States is a party that obligates parties—

“(A) to extradite alleged offenders found in the territory of the parties; or

“(B) submit the case to the competent authorities of the parties for prosecution; or

“(2) conduct that, if that conduct occurred in the United States, would constitute—

“(A) a crime of violence (as defined in section 16);

“(B) the distribution, manufacture, importation, or exportation of a controlled substance (as defined in section 201 of the Controlled Substances Act (21 U.S.C. 802));

“(C) bribery of a public official or misappropriation, embezzlement, or theft of public funds by or for the benefit of a public official;

“(D) obstruction of justice, including payment of bribes to jurors or witnesses;

“(E) the laundering of monetary instruments, as described in section 1956, if the value of the monetary instruments involved exceeds \$100,000;

“(F) fraud, theft, embezzlement, or commercial bribery if the aggregate value of property that is the object of all of the offenses related to the conduct exceeds \$100,000;

“(G) counterfeiting, if the obligations, securities, or other items counterfeited have an apparent value that exceeds \$100,000;

“(H) a conspiracy or attempt to commit any of the offenses described in any of subparagraphs (A) through (G), or aiding and abetting a person who commits any such offense; or

“(I) a crime against children under chapter 109A or section 2251, 2251A, 2252, or 2252A.

“(b) AUTHORIZATION OF FILING.—

“(1) IN GENERAL.—If a foreign government makes a request for the extradition of a person who is charged with or has been convicted of an offense within the jurisdiction of that foreign government, and an extradition treaty between the United States and the foreign government is in force but the treaty does not provide for extradition for the offense with which the person has been charged or for which the person has been convicted, the Attorney General may authorize the filing of a complaint for extradition pursuant to subsections (c) and (d).

“(2) FILING OF COMPLAINTS.—

“(A) IN GENERAL.—A complaint authorized under paragraph (1) shall be filed pursuant to section 3184.

“(B) PROCEDURES.—With respect to a complaint filed under paragraph (1), the procedures contained in sections 3184 and 3186 and the terms of the relevant extradition treaty shall apply as if the offense were a crime provided for by the treaty, in a manner consistent with section 3184.

“(c) CRITERIA FOR AUTHORIZATION OF COMPLAINTS.—

“(1) IN GENERAL.—The Attorney General may authorize the filing of a complaint under subsection (b) only upon a certification—

“(A) by the Attorney General, that in the judgment of the Attorney General—

“(i) the offense for which extradition is sought is a serious offense; and

“(ii) submission of the extradition request would be important to the law enforcement interests of the United States or otherwise in the interests of justice; and

“(B) by the Secretary of State, that in the judgment of the Secretary of State, submission of the request would be consistent with the foreign policy interests of the United States.

“(2) FACTORS FOR CONSIDERATION.—In making any certification under paragraph (1)(B), the Secretary of State may consider whether the facts and circumstances of the request then known appear likely to present any significant impediment to the ultimate surrender of the person who is the subject of the

request for extradition, if that person is found to be extraditable.

“(d) CASES OF URGENCY.—

“(1) IN GENERAL.—In any case of urgency, the Attorney General may, with the concurrence of the Secretary of State and before any formal certification under subsection (c), authorize the filing of a complaint seeking the provisional arrest and detention of the person sought for extradition before the receipt of documents or other proof in support of the request for extradition.

“(2) APPLICABILITY OF RELEVANT TREATY.—With respect to a case described in paragraph (1), a provision regarding provisional arrest in the relevant treaty shall apply.

“(3) FILING AND EFFECT OF FILING OF COMPLAINTS.—

“(A) IN GENERAL.—A complaint authorized this subsection shall be filed in the same manner as provided in section 3184.

“(B) ISSUANCE OF ORDERS.—Upon the filing of a complaint under this subsection, the appropriate judicial officer may issue an order for the provisional arrest and detention of the person as provided in section 3184.

“(e) CONDITIONS OF SURRENDER; ASSURANCES.—

“(1) IN GENERAL.—Before issuing a warrant of surrender under section 3184 or 3186, the Secretary of State may—

“(A) impose conditions upon the surrender of the person that is the subject of the warrant; and

“(B) require those assurances of compliance with those conditions as are determined by the Secretary to be appropriate.

“(2) ADDITIONAL ASSURANCES.—

“(A) IN GENERAL.—In addition to imposing conditions and requiring assurances under paragraph (1), the Secretary of State shall demand, as a condition of the extradition of the person in every case, an assurance described in subparagraph (B) that the Secretary determines to be satisfactory.

“(B) DESCRIPTION OF ASSURANCES.—An assurance described in this subparagraph is an assurance that the person that is sought for extradition shall not be tried or punished for an offense other than that for which the person has been extradited, absent the consent of the United States.”.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended—

(1) in section 3181, by inserting “, other than section 3197,” after “The provisions of this chapter” each place that term appears; and

(2) in section 3186, by striking “or 3185” and inserting “, 3185 or 3197”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

“3197. Extradition for offenses not covered by a list treaty.”.

SEC. 3. TEMPORARY TRANSFER OF PERSONS IN CUSTODY FOR PROSECUTION.

(a) IN GENERAL.—Chapter 306 of title 18, United States Code, is amended by adding at the end the following:

“§ 4116. Temporary transfer for prosecution

“(a) STATE DEFINED.—In this section, the term ‘State’ includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

“(b) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO TEMPORARY TRANSFERS.—

“(1) IN GENERAL.—Subject to subsection (d), if a person is in pretrial detention or is

otherwise being held in custody in a foreign country based upon a violation of the law in that foreign country, and that person is found extraditable to the United States by the competent authorities of that foreign country while still in the pretrial detention or custody, the Attorney General shall have the authority—

“(A) to request the temporary transfer of that person to the United States in order to face prosecution in a Federal or State criminal proceeding;

“(B) to maintain the custody of that person while the person is in the United States; and

“(C) to return that person to the foreign country at the conclusion of the criminal prosecution, including any imposition of sentence.

“(2) REQUIREMENTS FOR REQUESTS BY ATTORNEY GENERAL.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of that person to the foreign country in question would be consistent with international obligations of the United States.

“(c) AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO PRETRIAL DETENTIONS.—

“(1) IN GENERAL.—

“(A) AUTHORITY OF ATTORNEY GENERAL.—Subject to paragraph (2) and subsection (d), the Attorney General shall have the authority to carry out the actions described in subparagraph (B), if—

“(i) a person is in pretrial detention or is otherwise being held in custody in the United States based upon a violation of Federal or State law, and that person is found extraditable to a foreign country while still in the pretrial detention or custody pursuant to section 3184, 3197, or 3198; and

“(ii) a determination is made by the Secretary of State and the Attorney General that the person will be surrendered.

“(B) ACTIONS.—If the conditions described in subparagraph (A) are met, the Attorney General shall have the authority to—

“(i) temporarily transfer the person described in subparagraph (A) to the foreign country of the foreign government requesting the extradition of that person in order to face prosecution;

“(ii) transport that person from the United States in custody; and

“(iii) return that person in custody to the United States from the foreign country.

“(2) CONSENT BY STATE AUTHORITIES.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in paragraph (1) if the appropriate State authorities give their consent to the Attorney General.

“(3) CRITERION FOR REQUEST.—The Attorney General shall make a request under paragraph (1) only if the Attorney General determines, after consultation with the Secretary of State, that the return of the person sought for extradition to the foreign country of the foreign government requesting the extradition would be consistent with United States international obligations.

“(4) EFFECT OF TEMPORARY TRANSFER.—With regard to any person in pretrial detention—

“(A) a temporary transfer under this subsection shall result in an interruption in the pretrial detention status of that person; and

“(B) the right to challenge the conditions of confinement pursuant to section 3142(f) does not extend to the right to challenge the conditions of confinement in a foreign country while in that foreign country temporarily under this subsection.

“(d) CONSENT BY PARTIES TO WAIVE PRIOR FINDING OF WHETHER A PERSON IS EXTRADITABLE.—The Attorney General may exercise the authority described in subsections (b) and (c) absent a prior finding that the person in custody is extraditable, if the person, any appropriate State authorities in a case under subsection (c), and the requesting foreign government give their consent to waive that requirement.

“(e) RETURN OF PERSONS.—

“(1) IN GENERAL.—If the temporary transfer to or from the United States of a person in custody for the purpose of prosecution is provided for by this section, that person shall be returned to the United States or to the foreign country from which the person is transferred on completion of the proceedings upon which the transfer was based.

“(2) STATUTORY INTERPRETATION WITH RESPECT TO IMMIGRATION LAWS.—In no event shall the return of a person under paragraph (1) require extradition proceedings or proceedings under the immigration laws.

“(3) CERTAIN RIGHTS AND REMEDIES BARRED.—Notwithstanding any other provision of law, a person temporarily transferred to the United States pursuant to this section shall not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 306 of title 28, United States Code, is amended by adding at the end the following:

“4116. Temporary transfer for prosecution.”.

SEC. 4. PROHIBITING FUGITIVES FROM BENEFITTING FROM FUGITIVE STATUS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

“§ 2466. Fugitive disentitlement

“A person may not use the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action if that person—

“(1) purposely leaves the jurisdiction of the United States;

“(2) declines to enter or reenter the United States to submit to its jurisdiction; or

“(3) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end the following:

“2466. Fugitive disentitlement.”.

SEC. 5. TRANSFER OF FOREIGN PRISONERS TO SERVE SENTENCES IN COUNTRY OF ORIGIN.

Section 4100(b) of title 18, United States Code, is amended in the third sentence by striking “An offender” and inserting “Unless otherwise provided by treaty, an offender.”

SEC. 6. TRANSIT OF FUGITIVES FOR PROSECUTION IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Chapter 305 of title 18, United States Code, is amended by adding at the end the following:

“§ 4087. Transit through the United States of persons wanted in a foreign country

“(a) IN GENERAL.—The Attorney General may, in consultation with the Secretary of State, permit the temporary transit through the United States of a person wanted for prosecution or imposition of sentence in a foreign country.

“(b) LIMITATION OF JUDICIAL REVIEW.—A determination by the Attorney General to permit or not to permit a temporary transit described in subsection (a) shall not be subject to judicial review.

“(c) CUSTODY.—If the Attorney General permits a temporary transit under subsection (a), Federal law enforcement personnel may hold the person subject to that transit in custody during the transit of the person through the United States.

“(d) CONDITIONS APPLICABLE TO PERSONS SUBJECT TO TEMPORARY TRANSIT.—Notwithstanding any other provision of law, a person who is subject to a temporary transit through the United States under this section shall—

“(1) be required to have only such documents as the Attorney General shall require;

“(2) not be considered to be admitted or paroled into the United States; and

“(3) not be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the right to apply for or be granted asylum or withholding of deportation.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 305 of title 18, United States Code, is amended by adding at the end the following:

“4087. Transit through the United States of persons wanted in a foreign country.”.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FLIGHT AGAINST INTERNATIONAL CRIME
SEC. 1. STREAMLINED PROCEDURES FOR EXECUTION OF MLAT REQUESTS.

(a) IN GENERAL.—Chapter 117 of title 28, United States Code, is amended by adding at the end the following:

“§ 1785. Assistance to foreign authorities

“(a) IN GENERAL.—

“(1) PRESENTATION OF REQUESTS.—The Attorney General may present a request made by a foreign government for assistance with respect to a foreign investigation, prosecution, or proceeding regarding a criminal matter pursuant to a treaty, convention, or executive agreement for mutual legal assistance between the United States and that government or in accordance with section 1782, the execution of which requires or appears to require the use of compulsory measures in more than 1 judicial district, to a judge or judge magistrate of—

“(A) any 1 of the districts in which persons who may be required to appear to testify or produce evidence or information reside or are found, or in which evidence or information to be produced is located; or

“(B) the United States District Court for the District of Columbia.

“(2) AUTHORITY OF COURT.—A judge or judge magistrate to whom a request for assistance is presented under paragraph (1) shall have the authority to issue those orders necessary to execute the request including orders appointing a person to direct the taking of testimony or statements and the production of evidence or information, of whatever nature and in whatever form, in execution of the request.

“(b) AUTHORITY OF APPOINTED PERSONS.—A person appointed under subsection (a)(2) shall have the authority to—

“(1) issue orders for the taking of testimony or statements and the production of evidence or information, which orders may be served at any place within the United States;

“(2) administer any necessary oath; and

“(3) take testimony or statements and receive evidence and information.

“(c) PERSONS ORDERED TO APPEAR.—A person ordered pursuant to subsection (b)(1) to appear outside the district in which that person resides or is found may, not later than 10 days after receipt of the order—

“(1) file with the judge or judge magistrate who authorized execution of the request a motion to appear in the district in which that person resides or is found or in which the evidence or information is located; or

“(2) provide written notice, requesting appearance in the district in which the person resides or is found or in which the evidence or information is located, to the person issuing the order to appear, who shall advise the judge or judge magistrate authorizing execution.

“(d) TRANSFER OF REQUESTS.—

“(1) IN GENERAL.—The judge or judge magistrate may transfer a request under subsection (c), or that portion requiring the appearance of that person, to the other district if—

“(A) the inconvenience to the person is substantial; and

“(B) the transfer is unlikely to adversely affect the effective or timely execution of the request or a portion thereof.

“(2) EXECUTION.—Upon transfer, the judge or judge magistrate to whom the request or a portion thereof is transferred shall complete its execution in accordance with subsections (a) and (b).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 117 of title 28, United States Code, is amended by adding at the end the following:

“1785. Assistance to foreign authorities.”.

SEC. 2. TEMPORARY TRANSFER OF INCARCERATED WITNESSES.

(a) IN GENERAL.—Section 3508 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 3508. Temporary transfer of witnesses in custody”;

(2) in subsection (a), by inserting “IN GENERAL.—” after “(a)”; and

(3) by striking subsections (b) and (c) and inserting the following:

“(b) TRANSFER AUTHORITY.—

“(1) IN GENERAL.—If the testimony of a person who is serving a sentence, in pretrial detention, or otherwise being held in custody in the United States, is needed in a foreign criminal proceeding, the Attorney General shall have the authority to—

“(A) temporarily transfer that person to the foreign country for the purpose of giving the testimony;

“(B) transport that person from the United States in custody;

“(C) make appropriate arrangements for custody for that person while outside the United States; and

“(D) return that person in custody to the United States from the foreign country.

“(2) PERSONS HELD FOR STATE LAW VIOLATIONS.—If the person is being held in custody for a violation of State law, the Attorney General may exercise the authority described in this subsection if the appropriate State authorities give their consent.

“(c) RETURN OF PERSONS TRANSFERRED.—

“(1) IN GENERAL.—If the transfer to or from the United States of a person in custody for the purpose of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the United States, or to the foreign country from which the person is transferred.

“(2) LIMITATION.—In no event shall the return of a person under this subsection require any request for extradition or extra-

dition proceedings, or require that person to be subject to deportation or exclusion proceedings under the laws of the United States, or the foreign country from which the person is transferred.

“(d) APPLICABILITY OF INTERNATIONAL AGREEMENTS.—If there is an international agreement between the United States and the foreign country in which a witness is being held in custody or to which the witness will be transferred from the United States, that provides for the transfer, custody, and return of those witnesses, the terms and conditions of that international agreement shall apply. If there is no such international agreement, the Attorney General may exercise the authority described in subsections (a) and (b) if both the foreign country and the witness give their consent.

“(e) RIGHTS OF PERSONS TRANSFERRED.—

“(1) Notwithstanding any other provision of law, a person held in custody in a foreign country who is transferred to the United States pursuant to this section for the purpose of giving testimony—

“(A) shall not by reason of that transfer, during the period that person is present in the United States pursuant to that transfer, be entitled to apply for or obtain any right or remedy under the Immigration and Nationality Act, including the right to apply for or be granted asylum or withholding of deportation or any right to remain in the United States under any other law; and

“(B) may be summarily removed from the United States upon order of the Attorney General.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create any substantive or procedural right or benefit to remain in the United States that is legally enforceable in a court of law of the United States or of a State by any party against the United States or its agencies or officers.

“(f) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—The Attorney General shall not take any action under this section to transfer or return a person to a foreign country unless the Attorney General determines, after consultation with the Secretary of State, that transfer or return would be consistent with the international obligations of the United States. A determination by the Attorney General under this subsection shall not be subject to judicial review by any court.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3508 and inserting the following:

“3508. Temporary transfer of witnesses in custody.”.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

SEC. 1. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended by adding at the end the following:

“(iii) COMMISSION OF ACTS OF TORTURE.—Any alien who, outside the United States, has committed any act of torture, as defined in section 2340 of title 18, United States Code, is inadmissible.”.

“(b) REMOVABILITY.—Section 237(a)(4)(D) of that Act (8 U.S.C. 1227(a)(4)(D)) is amended by striking “clause (i) or (ii)” and inserting “clause (i), (ii), or (iii)”.

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses

committed before, on, or after the date of enactment of this Act.

SEC. 2. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

“(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize, or prosecute any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E).”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice for the fiscal year 2000 such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expanded.

MOBILE TELECOMMUNICATIONS SOURCING ACT

On October 20, 1999, Mr. BROWNBAC, for himself and Mr. DORGAN, introduced S. 1755. The text of the bill follows:

S. 1755

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mobile Telecommunications Sourcing Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The provision of mobile telecommunications services is a matter of interstate commerce within the jurisdiction of the United States Congress under Article I, Section 8 of the United States Constitution. Certain aspects of mobile telecommunications technologies and services do not respect, and operate independently of, State and local jurisdictional boundaries.

(2) The mobility afforded to millions of American consumers by mobile telecommunications services helps to fuel the American economy, facilitate the development of the information superhighway and provide important safety benefits.

(3) Users of mobile telecommunications services can originate a call in one State or local jurisdiction and travel through other States or local jurisdictions during the course of the call. These circumstances make it more difficult to track the separate segments of a particular call with all of the States and local jurisdictions involved with the call. In addition, expanded home calling areas, bundled service offerings and other marketing advances make it increasingly difficult to assign each transaction to a specific taxing jurisdiction.

(4) State and local taxes imposed on mobile telecommunications services that are not consistently based on subject consumers, businesses and others engaged in interstate commerce to multiple, confusing and burdensome State and local taxes and result in higher costs to consumers and the industry.

(5) State and local taxes that are not consistently based can result in some tele-

communications revenues inadvertently escaping State and local taxation altogether, thereby violating standards of tax fairness, creating inequities among competitors in the telecommunications market and depriving State and local governments of needed tax revenues.

(6) Because State and local tax laws and regulations of many jurisdictions were established before the proliferation of mobile telecommunications services, the application of these laws to the provision of mobile telecommunications services may produce conflicting or unintended tax results.

(7) State and local governments provide essential public services, including services that Congress encourages State and local governments to undertake in partnership with the Federal government for the achievement of important national policy goals.

(8) State and local governments provide services that support the flow of interstate commerce, including services that support the use and development of mobile telecommunications services.

(9) State governments as sovereign entities in our Federal system may require that interstate commerce conducted within their borders pay its fair share of tax to support the government services provided by those governments.

(10) Local governments as autonomous subdivisions of a State government may require that interstate commerce conducted within their borders pay its fair share of tax to support the governmental services provided by those governments.

(11) To balance the needs of interstate commerce and the mobile telecommunications industry with the legitimate role of State and local governments in our system of federalism, Congress needs to establish a uniform and coherent national policy regarding the taxation of mobile telecommunications services through the exercise of its constitutional authority to regulate interstate commerce.

(12) Congress also recognizes that the solution established by this legislation is a necessarily practical one and must provide for a system of State and local taxation of mobile telecommunications services that in the absence of this solution would not otherwise occur. To this extent, Congress exercises its power to provide a reasonable solution to otherwise insoluble problems of multi-jurisdictional commerce.

SEC. 3. AMENDMENT OF COMMUNICATIONS ACT OF 1934 TO PROVIDE RULES FOR DETERMINING STATE AND LOCAL GOVERNMENT TREATMENT OF CHARGES RELATED TO MOBILE TELECOMMUNICATIONS SERVICES.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end thereof the following:

“TITLE VIII—STATE AND LOCAL TREATMENT OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES.

“SEC. 801. APPLICATION OF TITLE.

“(a) IN GENERAL.—This title applies to any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

“(b) GENERAL EXCEPTIONS.—This title does not apply to—

“(1) any tax, charge, or fee levied upon or measured by the net income, capital stock,

net worth or property value of the provider of mobile telecommunications service;

“(2) any tax, charge, or fee that is applied to an equitably apportioned gross amount that is not determined on a transactional basis;

“(3) any tax, charge, or fee that represents compensation for a mobile telecommunications service provider’s use of public rights of way or other public property, provided that such tax, charge, or fee is not levied by the taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunication services; or

“(4) any fee related to obligations under section 254 of this Act.”.

“(c) SPECIFIC EXCEPTIONS.—This title—

“(1) does not apply to the determination of the taxing situs of prepaid telephone calling services;

“(2) does not affect the taxability of either the initial sale of mobile telecommunications services or subsequent resale, whether as sales of the service alone or as a part of a bundled product, where the Internet Tax Freedom Act would preclude a taxing jurisdiction from subjecting the charges of the sale of these mobile telecommunications services to a tax, charge, or fee but this section provides no evidence of the intent of Congress with respect to the applicability of the Internet Tax Freedom Act to such charges; and

“(3) does not apply to the determination of the taxing situs of air-ground radiotelephone service as defined in section 22.99 of the Commission’s regulations (47 C.F.R. 22.99).

“SEC. 802. SOURCING RULES.

“(a) IN GENERAL.—Notwithstanding the law of any State or political subdivision thereof to the contrary, mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer’s home service provider, shall be deemed to be provided by the customer’s home service provider.

“(b) JURISDICTION.—All charges for mobile telecommunications services that are deemed to be provided by the customer’s home service provider under this title are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer’s place of primary use, regardless of where the mobile telecommunication services originate, terminate or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

“SEC. 803. LIMITATIONS.

“This title does not—

“(1) provide authority to a taxing jurisdiction to impose a tax, charge, or fee that the laws of the jurisdiction do not authorize the jurisdiction to impose; or

“(2) modify, impair, supersede, or authorize the modification, impairment, or supersession of, the law of any taxing jurisdiction pertaining to taxation except as expressly provided in this title.

“SEC. 804. ELECTRONIC DATABASES FOR NATION-WIDE STANDARD NUMERIC JURISDICTIONAL CODES.

“(a) ELECTRONIC DATABASE.—A State may provide an electronic database to a home service provider or, if a State does not provide such an electronic database to home service providers, then the designated database provider may provide an electronic database to a home service provider. The electronic database, whether provided by the State or the designated database provider,