

(7) Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended—

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

“JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM”;

and

(B) by striking “Coastal Barrier Resources System” each place it appears and inserting “John H. Chafee Coastal Barrier Resources System”.

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 344, S. 1754.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1754) to deny safe havens to international and war criminals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—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 CRIMINALS

Sec. 101. Temporary transfer of persons in custody for prosecution.

Sec. 102. Prohibiting fugitives from benefiting from fugitive status.

Sec. 103. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 104. Transit of fugitives for prosecution in foreign countries.

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

Sec. 201. Streamlined procedures for execution of MLAT requests.

Sec. 202. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 301. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 302. Establishment of the Office of Special Investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 101. 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 18, United States Code, is amended by adding at the end the following:

“4116. Temporary transfer for prosecution.”.

SEC. 102. 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. 103. 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. 104. 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 ON 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 FIGHT AGAINST INTERNATIONAL CRIME

SEC. 201. 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. 202. 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 extradition 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. 301. 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. 302. 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 expended.

AMENDMENT NO. 2510

(Purpose: To make technical amendments)

Mr. GRASSLEY. Senators LEAHY and HATCH have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for Mr. LEAHY, for himself and Mr. HATCH, proposes an amendment numbered 2510.

The amendment is as follows:

On page 30, lines 20 and 21, strike "WITH RESPECT TO IMMIGRATION LAWS".

On page 30, lines 24 and 25, strike "or proceedings under the immigration laws" and insert a period, quotation marks, and a second period.

On page 31, strike lines 1 through 8.

On page 33, line 13, insert "and" after the semicolon.

On page 33, line 15, strike "; and" and insert a period, quotation marks, and a second period.

On page 33, strike lines 16 through 20.

Beginning on page 38, line 22, strike "or require" and all that follows through "transferred" on line 2 of page 39.

On page 39, line 13, after the period, insert ending quotation marks and a final period.

Beginning on page 39, strike line 14 and all that follows through line 20 on page 40.

On page 42, line 5, after "denaturalize", insert "(as otherwise authorized by law)".

Mr. LEAHY. Mr President, I am delighted that the Senate is considering S. 1754, the "Denying Safe Haven to International and War Criminals Act of 1999," along with a technical amendment that strikes several provisions in the bill reported by the Judiciary Committee that would have had the effect of altering the applicability of current law in certain instances. Senator HATCH and I introduced this bill on October 20, 1999, with a number of provisions that I have long supported. The legislation will give United States law enforcement agencies important tools to help them combat international crime by facilitating international cooperation in the prosecution of criminal cases and ensuring that human rights abusers are denied safe haven in this country.

Unfortunately, crime and terrorism directed at Americans and American interests abroad are part of our modern reality. Furthermore, organized criminal activity does not recognize national boundaries. With improvements in technology, criminals now can move about the world with ease. They can transfer funds with the push of a button, or use computers and credit card numbers to steal from American citizens and businesses from any spot on the globe. They can commit crimes

here or abroad and flee quickly to another jurisdiction or country. The playing field keeps changing, and we need to change with it.

This bill will help make needed modifications in our laws, not with sweeping changes but with thoughtful provisions carefully targeted at specific problems faced by law enforcement. We cannot stop international crime without international cooperation, and this bill gives additional tools to investigators and prosecutors to promote such cooperation, while narrowing the room for maneuver that international criminals, including human rights abusers, and terrorists now enjoy.

Regarding the Anti-Atrocity Alien Deportation Act (Title III), this bill contains as its last title the "Anti-Atrocity Alien Deportation Act," which I introduced as S. 1375, on July 15, 1999, with Senator KOHL. Senator LIEBERMAN is also a cosponsor. This legislation has garnered bipartisan support both in the Senate and the House, where the measure has been introduced by Representatives FOLEY, FRANKS and ACKERMAN as H.R. 2642 and H.R. 3058.

I have been appalled that this country has become a safe haven for those who exercised power in foreign countries to terrorize, rape, and torture innocent civilians. For example, three Ethiopian refugees proved in an American court that Kelbessa Negewo, a former senior government official in Ethiopia engaged in numerous acts of torture and human rights abuses against them in the late 1970's when they lived in that country. The court's descriptions of the abuse are chilling, and included whipping a naked woman with a wire for hours and threatening her with death in the presence of several men. The court's award of compensatory and punitive damages in the amount of \$1,500,000 to the plaintiffs was subsequently affirmed by an appellate court. See *Abebe-Jira v. Negewo*, 72 F.3d 844 (11th Cir. 1996). Yet, while Negewo's case was on appeal, the Immigration and Naturalization Service granted him citizenship.

As Professor William Aceves of California Western School of Law has noted, this case reveals "a glaring and troubling limitation in current immigration law and practice. This case is not unique. Other aliens who have committed gross human rights violations have also gained entry into the United States and been granted immigration relief." The Rutland Herald got it right when it opined on October 31, 1999, that:

For the U.S. commitment to human rights to mean anything, U.S. policies must be strong and consistent. It is not enough to denounce war crimes in Bosnia and Kosovo or elsewhere and then wink as the perpetrators of torture and mass murder slip across the border to find a home in America.

The Immigration and Nationality Act currently provides that (i) partici-

pants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States and deportable. See 8 U.S.C. §1182(a)(3)(E)(i) and §1227(a)(4)(D). This legislation would amend these sections of the Immigration and Nationality Act by expanding the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad.

"Torture" is already defined in the Federal criminal code, 18 U.S.C. § 2340, in a law passed as part of the implementing legislation for the "Convention Against Torture," under which the United States has an affirmative duty to prosecute torturers within its boundaries regardless of their respective nationalities. 18 U.S.C. § 2340A (1994). As defined in the federal criminal code, torture means any act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering upon another person within his custody or physical control. This could include prolonged mental harm caused by or resulting from the infliction or threat to inflict physical pain, threats to kill another person, or the administration of mind-altering substances or procedures calculated to disrupt profoundly the senses or personality of another person. Under this definition, torturers include both those who issue the orders to torture innocent people as well as those who implement those orders.

The legislation would also amend the Immigration and Nationality Act, 8 U.S.C. § 1103, by directing the Attorney General to establish an Office of Special Investigations (OSI) within the Department of Justice with authorization to investigate, remove, denaturalize, or prosecute any alien who has participated in torture or genocide abroad. Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all "investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion." (Attorney Gen. Order No. 851-79). The OSI's mission continues to be limited by that Attorney General Order.

The legislation would provide statutory authorization for Office of Special Investigation, and would expand its jurisdiction to authorize investigations, prosecutions, and removal of any alien who participated in torture and genocide abroad—not just Nazis. The success of OSI in hunting Nazi war criminals demonstrates the effectiveness of

centralized resources and expertise in these cases. OSI has worked, and it is time to update its mission. The knowledge of the people, politics and pathologies of particular regimes engaged in genocide and human rights abuses is often necessary for effective prosecutions of these cases and may best be accomplished by the concentrated efforts of a single office, rather than in piecemeal litigation around the country or in offices that have more diverse missions.

I appreciate that this part of the legislation has proven controversial within the Department of Justice, but others have concurred in my judgment that the OSI is an appropriate component of the Department to address the new responsibilities proposed in the bill. Professor Aceves, who has studied these matters extensively, has concluded that OSI's "methodology for pursuing Nazi war criminals can be applied with equal rigor to other perpetrators of human rights violations. As the number of Nazi war criminals inevitably declines, the OSI can begin to enforce U.S. immigration laws against perpetrators of genocide and other gross violations of human rights."

Similarly, the Rutland Herald recently noted that the INS has never deported an immigrant on the basis of human rights abuses, while the OSI has deported 48 ex-Nazis and stripped 61 of U.S. citizenship, while maintaining a list of 60,000 suspected war criminals with the aim of barring them from entry. Based on this record, the Rutland Herald concluded that the legislation correctly looks to OSI to carry out the additional responsibilities called for in the bill, noting that:

It resolves a turf war between the INS and the OSI in favor of the OSI, which is as it should be. The victims of human rights abuses are often victimized again when, seeking refuge in the United States, they are confronted by the draconian policies of the INS. It's a better idea to give the job of finding war criminals to the office that has shown it knows how to do the job.

Unquestionably, the need to bring Nazi war criminals to justice remains a matter of great importance. Funds would not be diverted from the OSI's current mission. Additional resources are authorized in the bill for OSI's expanded duties. I would like to recognize the reporting of Boston Globe reporter Steve Fainaru, whose ground-breaking series has illuminated the need for a more focused response to this problem.

Regarding the sections Denying Safe Haven to International Criminals and Promoting Global Cooperation (Title I and II), I initially introduced title I, section 102 of this bill, regarding fugitive disentanglement, on April 30, 1998, in S. 2011, the "Money Laundering Enforcement and Combating Drugs in Prisons Act of 1998," with Senators DASCHLE, KOHL, FEINSTEIN and CLELAND. Again, on July 14, 1998, I in-

troduced with Senator BIDEN, on behalf of the Administration, S. 2303, the "International Crime Control Act of 1998," which contains most of the provisions set forth in titles I and II of this bill. Virtually all of the provisions in these two titles of the bill were also included in another major anti-crime bill, S. 2484, the "Safe Schools, Safe Streets, and Secure Borders Act of 1998," which I introduced on September 16, 1998, along with Senators DASCHLE, BIDEN, Moseley-Braun, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, BINGAMAN, REID, MURRAY, DORGAN, and TORRICELLI. In addition, Senator HATCH and I included title II, section 201 of this bill, regarding streamlined procedures for MLAT requests in S. 2536, our "International Crime and Anti-Terrorism Amendments of 1998," which passed the Senate last October 15, 1998.

We have drawn from these more comprehensive bills a set of discrete improvements that enjoy bipartisan support so that important provisions may be enacted promptly. Each of these provisions has been a law enforcement priority.

Title I sets forth important proposals for combating international crime and denying safe havens to international criminals. The substitute amendment adopted by the Judiciary Committee to the original bill removed sections 1 and 2, which set forth detailed procedures and safeguards for proceeding with extradition for offenses not covered in a treaty.

Section 101 of the bill considered by the Senate today would add a new section 4116 to title 18, United States Code, authorizing the Attorney General to request the temporary transfer to the United States of a person, who is in pretrial detention or custody in a foreign country, to face prosecution, if the Attorney General, in consultation with the Secretary of State, determines that such transfer would be consistent with the international obligations of the United States. The section would also authorize the Attorney General to transfer temporarily to a foreign country a person, who is in pretrial detention or custody in the United States and found extraditable to the foreign country, to face prosecution in the foreign country, if the Attorney General, in consultation with the Secretary of State, determines that such transfer would be consistent with the international obligations of the United States. Consent of state authorities would be required for persons in state custody.

Section 102 is designed to stop drug kingpins, terrorists and other international fugitives from using our courts to fight to keep the proceeds of the very crimes for which they are wanted. Criminals should not be able to use our courts at the same time they are evading our laws. Specifically, this section adds a new section 2466 to

title 28, United States Code, that would bar a person, who purposely leaves the United States or declines to submit to or otherwise evades U.S. jurisdiction where a criminal case is pending against the person, from participating as a party in a civil action over a related civil or criminal forfeiture claim. The Supreme Court recently decided that a previous judge-made rule to the same effect required a statutory basis. This section provides that basis.

Section 103 would amend section 4100(b) of title 18, United States Code, to permit transfer, on a case-by-case basis, of prisoners to their home country to serve their sentences, where such transfer is provided by treaty. Under this section, the prisoner need not consent to the transfer.

Section 104 would add a new section 4087 to title 18, United States Code, that would provide a statutory basis for holding and transferring prisoners who are sent from one foreign country to another through United States airports, at the discretion of the Attorney General.

Title II of the bill is designed to promote global cooperation in the fight against international crime. Section 201 would permit United States courts involved in multi-district litigation to enforce mutual legal assistance treaties and other agreements to execute foreign requests for assistance in criminal matters in all districts involved in the litigation. Specifically, this provision would add a new section 1785 to title 18, United States Code, that would authorize the Attorney General to present requests from foreign governments for assistance in criminal cases pursuant to mutual legal assistance treaties and other agreements when the enforcement involves multiple districts. Compulsory measures may be used to require persons to produce testimony or evidence where they reside or the evidence is located, or the U.S. District Court for the District of Columbia. A person ordered to produce testimony or evidence outside the jurisdiction of residence may petition to appear in the district where the person resides.

Section 202 outlines procedures for the temporary transfer of incarcerated witnesses. Mutual legal assistance treaties ("MLATS") generally already provide a mechanism for the United States to send and receive persons in custody who are needed as witnesses, either in our courts or foreign courts for criminal cases. These witnesses are often cooperating to obtain a lighter sentence. Section 3508 of title 18, United States Code, enacted in 1988, already provides the authority, absent such a MLAT, for the Attorney General to request foreign witnesses, who are in custody, to come to the United States to testify in criminal cases here, and to assure their expeditious return to the foreign country. The bill would amend

section 3508 to permit the Attorney General, as a matter of comity and reciprocity, to send United States prisoners abroad to testify, according to the terms and conditions of the MLAT. If there is no MLAT, the Attorney General may only send a United States prisoner abroad to testify with the prisoner's consent and, where applicable, the State holding the prisoner. Decisions of the Attorney General respecting such transfers are to be made in conjunction with the Secretary of State.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. I thank my friend from Utah, Senator HATCH, for his help in making this bill a reality. Working together, we were able to pass bipartisan legislation that will accomplish what all of us want, a safer and more secure America.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2510) was agreed to.

The committee amendment in the nature of a substitute, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1754), as amended, was read the third time and passed, as follows:

S. 1754

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—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 CRIMINALS

Sec. 101. Temporary transfer of persons in custody for prosecution.

Sec. 102. Prohibiting fugitives from benefiting from fugitive status.

Sec. 103. Transfer of foreign prisoners to serve sentences in country of origin.

Sec. 104. Transit of fugitives for prosecution in foreign countries.

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

Sec. 201. Streamlined procedures for execution of MLAT requests.

Sec. 202. Temporary transfer of incarcerated witnesses.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Sec. 301. Inadmissibility and removability of aliens who have committed acts of torture abroad.

Sec. 302. Establishment of the Office of Special Investigations.

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

SEC. 101. 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.**—In no event shall the return of a person under paragraph (1) require extradition proceedings.”

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 306 of title 18, United States Code, is amended by adding at the end the following:

“4116. Temporary transfer for prosecution.”

SEC. 102. PROHIBITING FUGITIVES FROM BENEFITING 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. 103. 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. 104. 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 ON 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; and

“(2) not be considered to be admitted or paroled into the United States.”

(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 FIGHT AGAINST INTERNATIONAL CRIME**SEC. 201. 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. 202. 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 extradition proceedings.

“(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.”

(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. 301. 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. 302. 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 (as otherwise authorized by law), 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 expended.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Chair lay