and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. SANDERS):

S. 2926. A bill to amend the XVIII of the Social Security Act to provide for the application of a consistent Medicare part B premium for all Medicare beneficiaries in a budget neutral manner for 2010, to provide an additional round of economic recovery payments to certain beneficiaries, and to assess the need for a consumer price index for elderly consumers to compute cost-of-living increases for certain governmental benefits; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. SANDERS, Mr. WHITEHOUSE, and Mr. BROWN):

S. 2927. A bill to amend the Internal Revenue Code of 1986 to impose a tax on certain securities transactions to fund job creation and deficit reduction, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2928. A bill to amend the Internal Revenue Code of 1986 to extend certain disaster tax relief provisions, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. WHITEHOUSE):

S. 2929. A bill to prohibit secret modifications and revocations of the law, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SPECTER (for himself, Mr. SCHUMER, and Mr. GRAHAM):

S. 2930. A bill to deter terrorism, provide justice for victims, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 624

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite—tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 1402

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1402, a bill to amend the Internal Revenue Code of 1986 to increase the amount allowed as a deduction for start-up expenditures.

S. 2824

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2824, a bill to establish a small dollar loan-loss guarantee fund, and for other purposes.

S. 2854

At the request of Mr. KOHL, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2854, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes.

S. 2925

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2925, a bill to establish a grant program to benefit victims of sex trafficking, and for other purposes.

AMENDMENT NO. 2995

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 2995 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 3264

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3264 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2928. A bill to amend the Internal Revenue Code of 1986 to extend certain disaster tax relief provisions, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I have introduced a bill to extend deadlines for a number of provisions in the Heartland Disaster Tax Relief Act of 2008, as well as a number of national disaster tax relief provisions, through 2010.

The Heartland Disaster Tax Relief Act has been critical in rebuilding the lives and communities of those affected by the terrible floods and tornadoes from last year.

Because of delays in Federal funding and tighter credit conditions, many individuals, families, and businesses affected by the 2008 floods and storms will be unable to meet the deadline for the tax relief intended to help with recovery.

Louisiana is still rebuilding from Hurricane Katrina in 2005. Congress extended tax incentives for that disaster twice, and might even extend them a third time. I am just proposing a second year of the same kind of tax incentives that have been in effect for Hurricane Katrina victims for over 4 years.

This is especially important when small businesses are struggling to recover, and small businesses create 70 percent of all net new jobs.

It is only fair to extend the deadlines and give these individuals, families, and businesses the chance to recover and rebuild.

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

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

S. 2928

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 ''Heartland Disaster Tax Relief Extension Act of 2009''.

TITLE I—HEARTLAND DISASTER AREAS

SEC. 101. CREDIT TO HOLDERS OF TAX CREDIT BONDS.

Section 702(d)(7)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

SEC. 102. EDUCATION TAX BENEFITS.

Section 702(d)(8) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

SEC. 103. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended—

(1) by striking ''January 1, 2010'' both places it appears and inserting ''January 1, 2011'', and

(2) by striking ''December 31, 2009'' both places it appears and inserting ''December 31, 2010''.

SEC. 104. ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.

Section 702(d)(15) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

SEC. 105. EFFECTIVE DATE.

The amendments made by this title shall take effect as if included in the enactment of section 702 of the Heartland Disaster Tax Relief Act of 2008.

TITLE II—NATIONAL DISASTER AREAS

SEC. 201. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) NO LIMIT FOR 2010.—Paragraph (1) of section 165(h) of the Internal Revenue Code of 1986 is amended by striking ''$500 ($100 for taxable years beginning after December 31, 2009)'' and inserting ''$100 ($0 for taxable years beginning after December 31, 2009, and before January 1, 2011)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 202. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 203. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 204. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) of the Internal Revenue Code of 1986 is

amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

SEC. 205. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

By Mr. FEINGOLD (for himself and Mr. WHITEHOUSE):

S. 2929. A bill to prohibit secret modifications and revocations of the law, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, today Senator WHITEHOUSE and I will introduce the Executive Order Integrity Act of 2009. The bill prevents secret changes to published Executive Orders by requiring the President to place a notice in the Federal Register when he has modified or revoked a published Order. Through this simple measure, the bill takes an important step toward reversing the growth of secret law in the executive branch.

The principle behind this bill is straightforward. It is a basic tenet of democracy that the people have a right to know the law. Indeed, the notion of ''secret law'' has been described in court opinions and law treatises as ''repugnant'' and ''an abomination.'' That's why the laws passed by Congress have historically been matters of public record.

But the law that applies in this country includes more than just statutes. It includes regulations, the controlling legal interpretations of courts and the executive branch, and certain Presidential directives. As we learned at a hearing of the Judiciary Committee's Constitution Subcommittee that I chaired last year, some of this body of executive and judicial law was increasingly kept secret from the public, and too often from Congress as well, under the Bush administration. The administration concealed Department of Justice legal opinions and interpretations of the Foreign Intelligence Surveillance Court.

The shroud of secrecy extended to Executive Orders and other Presidential directives that carry the force of law. The Federal Register Act requires the President to publish any Executive Orders that have general applicability and legal effect. But through the diligent efforts of my colleague Senator WHITEHOUSE, we learned in late 2007 that the Department of Justice took the position that a President can ''waive'' or ''modify'' any Executive Order without any notice to the public or Congress—simply by not following it. In other words, even in cases where the President is required to make the public, the President can change the law in secret.

The Office of Legal Counsel memorandum that contains this position is still classified, but Senator WHITEHOUSE convinced the Department of Justice to declassify certain propositions in the memorandum. Among them is the proposition that ''[w]henever [the President] wishes to depart from the terms of a previous executive order,'' he may do so, because ''an executive order cannot limit a President.'' And he doesn't have to change the executive order, or give notice that he is violating it, because by ''depart[ing] from the executive order,'' the President ''has instead modified or waived it.''

Now, no one disputes that a President can withdraw or revise an Executive Order at any time; that is every President's prerogative. But abrogating a published Executive Order without any public notice works a secret change in the law. Worse, because the published Order stays on the books, it actively misleads Congress and the public as to what the law is.

This is not just a hypothetical problem dreamed up by the Office of Legal Counsel. It has happened, and it could happen again. To list just one example, the Bush administration's warrantless wiretapping program not only violated the Foreign Intelligence Surveillance Act; it was inconsistent with several provisions of Executive Order 12333, the longstanding executive order governing electronic surveillance and other intelligence activities. Apparently, the administration believed its actions constituted a tacit amendment of that Executive Order. Who knows how many other Executive Orders were secretly revoked or amended by the conduct of the administration over the past 8 years.

The bill that Senator WHITEHOUSE and I are introducing provides a simple solution to this problem. If the President revokes, modifies, waives, or suspends a published Executive Order or similar directive, notice of this change in the law must be placed in the Federal Register within 30 days. The notice must specify the Order or the provision that has been affected; whether the change is a revocation, a modification, a waiver, or a suspension; and the nature and circumstances of the change. If information about the nature and circumstances of the change is classified, it is exempt from the publication requirement, but the information still must be provided to Congress so that we, as legislators, know how the law has been changed.

That is what our bill does; now let me talk briefly about what our bill does not do. First, it does not expand the existing legal requirements, under the Federal Register Act, that determine which Executive Orders must be published. To the extent the Federal Register Act permits a certain amount of ''secret law'' in the form of unpublished Executive Orders, our bill leaves that framework in place.

Second, our bill does not require public notice when the President revokes or modifies an unpublished Executive Order—even if the substance of the unpublished order is well-known to Congress and even the American people. This bill is narrowly aimed at the situation in which the American people have been given official notice of one version of the law, but a different version is being implemented.

Third, the bill does not require the President to adhere to the terms of an Executive Order. Many scholars have argued that a President must adhere to a formally promulgated Executive Order unless or until the Order is formally withdrawn or amended, just as the head of an agency must adhere to the agency's regulations. I happen to agree. But this bill does not take issue with the Bush administration's assertion that any deviation from the Executive Order by the President is a permissible amendment of that Order. It simply requires public notice that the amendment has occurred.

Fourth, the bill does not require the publication of classified information about intelligence sources and methods or similar information. The basic fact that the published law is no longer in effect, however, cannot be classified. On rare occasions, national security can justify elected officials keeping some information secret, but it can never justify lying to the American people about what the law is. Maintaining two different sets of laws, one public and one secret, is just that—deceiving the American people about what law applies to the Government's conduct.

It is my hope and my expectation that the Obama administration will not continue the previous administration's practice of purporting to amend the law in secret. But even if the administration agrees to end this practice, that will not end the need for this legislation. At last year's Secret Law hearing, the Deputy Assistant Attorney General for OLC testified that during the Iran-Contra scandal in the 1980s, the Reagan Department of Justice took the same position: that the President could secretly modify executive orders simply by not complying with them. We can safely assume that the ability to modify the law in secret will hold as much appeal for a future administration as it did for at least two administrations in the past. We can't wait for this to happen in order to act, because we won't know that it has happened—the entire point of the practice, after all, is to keep Congress and the public in the dark. The time to prevent this eventuality is now.

I commend Senator WHITEHOUSE for his tireless work to bring this issue to light, and I urge all of my colleagues in the Senate to support this modest effort to ensure the integrity of our published laws.

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

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

S. 2929

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 ''Executive Order Integrity Act of 2009''.

SEC. 2. REVOCATIONS, MODIFICATIONS, WAIVERS, AND SUSPENSIONS OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.

Section 1505 of title 44, United States Code, is amended by adding at the end the following:

''(d) REVOCATIONS, MODIFICATIONS, WAIVERS, AND SUSPENSIONS OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.—

''(1) NOTICE REQUIRED.—If the President, whether formally or informally, and whether through express order, conduct, or other means—

''(A) revokes, modifies, waives, or suspends any portion of a Presidential proclamation, Executive Order, or other Presidential directive that was published in the Federal Register; or

''(B) authorizes the revocation, modification, waiver, or suspension of any portion of such Presidential proclamation, Executive Order, or other Presidential directive;

notice of such revocation, modification, waiver, or suspension shall be published in the Federal Register within 30 days after the revocation, modification, waiver, or suspension, in accordance with the terms under paragraph (2).

''(2) CONTENT OF NOTICE.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), the notice required under paragraph (1) shall specify—

''(i) the Presidential proclamation, Executive Order, or other Presidential directive, and any particular portion thereof that is affected;

''(ii) for each affected directive or portion thereof, whether that directive or portion thereof was revoked, modified, waived, or suspended; and

''(iii) except where such information is classified, the specific nature and circumstances of the revocation, modification, waiver, or suspension.

''(B) REVISED EXECUTIVE ORDER.—Where the revocation, modification, waiver, or suspension of a Presidential proclamation, Executive Order, or other Presidential directive is accomplished through the publication in the Federal Register of a revised Presidential proclamation, Executive Order, or other Presidential directive that replaces or amends the one that was revoked, modified, waived, or suspended, that revised Presidential proclamation, Executive Order, or other Presidential directive shall constitute notice for purposes of paragraph (1).

''(3) CLASSIFIED INFORMATION.—If the information specified under paragraph (2)(A)(iii) is classified, such information shall be provided to Congress, using the security procedures established under section 501(d) of the National Security Act of 1947 (50 U.S.C. 413(d)), in the form of a classified annex delivered to—

''(A) the majority and minority leader of the Senate;

''(B) the Speaker, majority leader, and minority leader of the House of Representatives;

''(C) the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

''(D) if the information pertains to national security matters, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as either authorizing or prohibiting the revocation, modification, waiver, or suspension of any Presidential proclamation, Executive Order, or other Presidential directive that was published in the Federal Register through means other than a formal directive issued by the President and published in the Federal Register.''.

By Mr. SPECTER (for himself, Mr. SCHUMER, and Mr. GRAHAM):

S. 2930. A bill to deter terrorism, provide justice for victims, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, l have sought recognition to urge support for the legislation I have just introduced, the Justice Against Sponsors of Terrorism Act. The legislation would amend the Foreign Sovereign Immunities Act, FSIA, and the Anti-Terrorism Act, ATA, to ensure that foreign sponsors of terrorism are held accountable to their American victims in our courts. These amendments are necessary because some lower-court decisions have deprived victims of terrorism, including most recently 9/11's victims, of the legal remedies Congress intended to confer on them when it enacted the FSIA and ATA, and thereby removed a critical deterrent to the financing and sponsorship of terrorism. Congressional inaction would leave the victims of 9/11 without recourse against the sponsors of al-Qaeda and, more importantly perhaps, render the FSIA and the ATA ineffective deterrents to future terrorist attacks.

Recent news reports serve as a reminder that al-Qaeda and other foreign terrorist organizations remain dedicated to their declared goal of carrying out large-scale terrorist attacks within the U.S. In our continuous efforts to prevent such attacks, we have appropriately focused our attention on stemming the flow of money to terrorists through deterrence. As the Treasury Department's Undersecretary for Terrorism and Financial Intelligence has observed, ''the terrorist operative who is willing to strap on a suicide belt is not susceptible to deterrence, but the individual donor who wants to support violent jihad may well be,'' Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, before the Senate Committee on Finance, April 1, 2008. Holding them liable for civil damages in courts may be the most effective—and, given the absence of effective criminal sanctions, often only—way to deter them from sponsoring terrorist attacks. ''Suits against financiers of terrorism can,'' as renowned federal judge Richard Posner recently emphasized, ''cut the terrorist's lifeline.'' *Boim* v. *Holy Land Foundation for Relief and Development*, 549 F. 3d 685 (7th Cir. 2008).

As carefully written by Congress, the FSIA abrogates the sovereign immunity of foreign countries and permits suit against them in Federal court when, among other things, a foreign country commits terrorists acts or other tortious conduct that results in injury on our soil. The ATA authorizes suit in Federal court by any U.S. national injured ''by reason of an act of international terrorism'' and permits the recovery of ''threefold the damages he or she sustains'', that is, treble damages, as well the costs of suit and attorneys' fees. ''18 U.S.C. § 2333(a).

But a number of lower Federal courts have frustrated Congress's intent by erecting unfounded jurisdictional barriers to suit. No such decision is more significant in its effect than the Court of Appeals for the Second Circuit's In re Terrorist Attacks on September 11, 2001, 538 F. 3d 71 (2d Cir. 2009). That decision arose from litigation brought by the victims of the 9/11 attacks, including family members of the nearly 3,000 innocent people killed and commercial entities that suffered in excess of $10 billion in damage to their property. The plaintiffs sought damages against, among other defendants, the Kingdom of Saudi Arabia, several Saudi officials, and a purported charity under the control of the Kingdom known as the Saudi High Commission for Relief of Bosnia and Herzegovina. Substantial evidence establishes that these defendants had provided funding and sponsorship to al-Qaeda without which it could not have carried out the 9/11 attacks. Even the Second Circuit acknowledged that plaintiffs had offered a ''wealth of detail, conscientiously cited to published and unpublished sources,'' as to the defendants' sponsorship of al-Qaeda.

None of the plaintiffs had their day in court, however, for the Second Circuit ruled that the Federal courts have no jurisdiction over the principal defendants. As for Saudi Arabia and its official state agencies, the Second Circuit held that they were not subject to suit under the FSIA's tort exception because, having not been designated by the United States as a state sponsor of terrorism, Saudi Arabia was not covered by a separate FSIA exception for suits against designated state sponsors of terrorism. Suits arising from terrorist activities, the court concluded, can only be brought under the FSIA's exception governing designated state sponsors of terrorism. As for the Saudi princes, the Second Circuit held that the courts lacked personal jurisdiction over them because, though they ''could and did foresee [that] the recipients of their donations would attack targets in the United States,'' they did not themselves ''direct'' any terrorist attacks or ''command'' any ''agent'' to ''commit them.''

Both conclusions are wrong. The former is especially troubling because it establishes an immunity from suit under the FSIA that Congress did not intend. A foreign state is subject to suit for its terrorist activities under the FSIA's tort exception without regard to whether it is subject to suit under the separate exception for designated state sponsors of terrorism—that is, without regard to whether the

United States has designated it as a state sponsor of terrorism. The Second Circuit effectively read into the tort exception an exception for terrorist-related torts. Even the Solicitor General, who has adopted an unduly restrictive interpretation of the FSIA's exceptions, concluded that the Second Circuit misread the statute on this critical point.

The Second Circuit's and other lower courts' decisions on these seemingly technical jurisdictional points not only deprive the victims of terrorism the compensation to which they are entitled but also remove a powerful weapon in our arsenal against foreign terrorism. We can no longer wait for the Supreme Court to correct these errant decisions. The Court's refusal earlier this year to hear the plaintiffs' appeal of the Second Circuit's decision in In re Terrorist Attacks, despite the importance of the case and the conflicts among the lower courts on the key issues it presents, suggests that the Court may well never do so.

That is why I have introduced the Justice Against Sponsors of Terrorism Act. The act is main provisions would amend FSIA to make clear that, as Congress originally intended, a foreign state may be sued under the torts exception if it sponsors terrorists who commit terrorist attacks on our soil, without regard to whether it is a state-designated sponsor of terrorism, and amend the ATA to ensure that its anti-terrorism provisions, like FSIA's, are given the meaning Congress intended. I urge my colleagues to support these modest, but critical, amendments.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 23, 2009, at 2 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. CRAPO. Mr. President, I ask unanimous consent that Marques Chavez be granted the privilege of the floor for the remainder of today's session.

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

NUCLEAR FORENSICS AND ATTRIBUTION ACT

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 244, H.R. 730.

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

The bill clerk read as follows:

A bill (H.R. 730) to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nuclear Forensics and Attribution Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The threat of a nuclear terrorist attack on American interests, both domestic and abroad, is one of the most serious threats to the national security of the United States. In the wake of an attack, attribution of responsibility would be of utmost importance. Because of the destructive power of a nuclear weapon, there could be little forensic evidence except the radioactive material in the weapon itself.

(2) Through advanced nuclear forensics, using both existing techniques and those under development, it may be possible to identify the source and pathway of a weapon or material after it is interdicted or detonated. Though identifying intercepted smuggled material is now possible in some cases, pre-detonation forensics is a relatively undeveloped field. The post-detonation nuclear forensics field is also immature, and the challenges are compounded by the pressures and time constraints of performing forensics after a nuclear or radiological attack.

(3) A robust and well-known capability to identify the source of nuclear or radiological material intended for or used in an act of terror could also deter prospective proliferators. Furthermore, the threat of effective attribution could compel improved security at material storage facilities, preventing the unwitting transfer of nuclear or radiological materials.

(4)(A) In order to identify special nuclear material and other radioactive materials confidently, it is necessary to have a robust capability to acquire samples in a timely manner, analyze and characterize samples, and compare samples against known signatures of nuclear and radiological material.

(B) Many of the radioisotopes produced in the detonation of a nuclear device have short half-lives, so the timely acquisition of samples is of the utmost importance. Over the past several decades, the ability of the United States to gather atmospheric samples—often the preferred method of sample acquisition—has diminished. This ability must be restored and modern techniques that could complement or replace existing techniques should be pursued.

(C) The discipline of pre-detonation forensics is a relatively undeveloped field. The radiation associated with a nuclear or radiological device may affect traditional forensics techniques in unknown ways. In a post-detonation scenario, radiochemistry may provide the most useful tools for analysis and characterization of samples. The number of radiochemistry programs and radiochemists in United States National Laboratories and universities has dramatically declined over the past several decades. The narrowing pipeline of qualified people into this critical field is a serious impediment to maintaining a robust and credible nuclear forensics program.

(5) Once samples have been acquired and characterized, it is necessary to compare the results against samples of known material from reactors, weapons, and enrichment facilities, and from medical, academic, commercial, and other facilities containing such materials, throughout the world. Some of these samples are available to the International Atomic Energy Agency through safeguards agreements, and some countries maintain internal sample databases. Access to samples in many countries is limited by national security concerns.

(6) In order to create a sufficient deterrent, it is necessary to have the capability to positively identify the source of nuclear or radiological material, and potential traffickers in nuclear or radiological material must be aware of that capability. International cooperation may be essential to catalogue all existing sources of nuclear or radiological material.

SEC. 3. SENSE OF CONGRESS ON INTERNATIONAL AGREEMENTS FOR FORENSICS CO-OPERATION.

It is the sense of the Congress that the President should—

(1) pursue bilateral and multilateral international agreements to establish, or seek to establish under the auspices of existing bilateral or multilateral agreements, an international framework for determining the source of any confiscated nuclear or radiological material or weapon, as well as the source of any detonated weapon and the nuclear or radiological material used in such a weapon;

(2) develop protocols for the data exchange and dissemination of sensitive information relating to nuclear or radiological materials and samples of controlled nuclear or radiological materials, to the extent required by the agreements entered into under paragraph (1); and

(3) develop expedited protocols for the data exchange and dissemination of sensitive information needed to publicly identify the source of a nuclear detonation.

SEC. 4. RESPONSIBILITIES OF DOMESTIC NUCLEAR DETECTION OFFICE.

(a) ADDITIONAL RESPONSIBILITIES.—Section 1902 of the Homeland Security Act of 2002 (as redesignated by Public Law 110–53; 6 U.S.C. 592) is amended—

(1) in subsection (a)—

(A) in paragraph (9), by striking ''and'' after the semicolon;

(B) by redesignating paragraph (10) as paragraph (14); and

(C) by inserting after paragraph (9) the following:

''(10) lead the development and implementation of the national strategic five-year plan for improving the nuclear forensic and attribution capabilities of the United States required under section 1036 of the National Defense Authorization Act for Fiscal Year 2010;

''(11) establish, within the Domestic Nuclear Detection Office, the National Technical Nuclear Forensics Center to provide centralized stewardship, planning, assessment, gap analysis, exercises, improvement, and integration for all Federal nuclear forensics and attribution activities—

''(A) to ensure an enduring national technical nuclear forensics capability to strengthen the collective response of the United States to nuclear terrorism or other nuclear attacks; and

''(B) to coordinate and implement the national strategic five-year plan referred to in paragraph (10);

''(12) establish a National Nuclear Forensics Expertise Development Program, which—

''(A) is devoted to developing and maintaining a vibrant and enduring academic pathway from undergraduate to post-doctorate study in nuclear and geochemical science specialties directly relevant to technical nuclear forensics, including radiochemistry, geochemistry, nuclear physics, nuclear engineering, materials science, and analytical chemistry;

''(B) shall—

''(i) make available for undergraduate study student scholarships, with a duration of up to 4 years per student, which shall include, if possible, at least 1 summer internship at a national laboratory or appropriate Federal agency in the field of technical nuclear forensics during the course of the student's undergraduate career;

''(ii) make available for doctoral study student fellowships, with a duration of up to 5 years per student, which shall—

''(I) include, if possible, at least 2 summer internships at a national laboratory or appropriate Federal agency in the field of technical