(Mr. TESTER), the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 1814 proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of amendment No. 1814 proposed to S. 1813, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. GRASSLEY, and Mr. LEAHY):

S. 2189. A bill to amend the Age Discrimination in Employment Act of 1967 and other laws to clarify appropriate standards for Federal antidiscrimination and antiretaliation claims, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN: Mr. President, today I join with my senior colleague from Iowa, Senator GRASSLEY, and with the distinguished chair of the Judiciary Committee, Senator LEAHY, in introducing the Protecting Older Workers Against Discrimination Act.

The need for this legislation was vividly demonstrated by the experience of an Iowan—Jack Gross. Mr. Gross gave the prime of his life, a quarter century of loyal service, to one company. Despite Mr. Gross's stellar work record, the company brazenly demoted him and other employees over the age of 50 and gave his job to a younger employee.

Expressly to prevent this kind of discrimination, over 40 years ago Congress passed the Age Discrimination in Employment Act, ADEA. Modeled from and using the same language as Title VII of the Civil Rights Act of 1964—which prohibits employment discrimination on the basis of race, sex, national origin and religion—the ADEA makes it unlawful to discriminate on the basis of age.

When Mr. Gross sought to enforce his rights under this law, a jury of Iowans heard the facts and found that his employer discriminated against him because of his age. That jury awarded him almost $47,000 in lost compensation.

The case was ultimately appealed to the Supreme Court. In June 2009, in Gross v. FBL Financial, Inc., five justices effectively rewrote the law and ruled against Mr. Gross. In doing so, the Court made it harder for those with legitimate age discrimination claims to prevail under the ADEA. In fact, on remand, despite the fact Mr. Gross had established that age discrimination was a factor in his demotion, he lost his retrial.

For decades, the law was clear. In 1989, in Price Waterhouse v. Hopkins, the Court ruled that if a plaintiff seeking relief under Title VII of the Civil Rights Act demonstrated that discrimination was a ''motivating'' or ''substantial'' factor behind the employer's action, the burden shifted to the employer to show it would have taken the same action regardless of the plaintiff's membership in a protected class. As part of the Civil Rights Act of 1991, Congress codified the ''motivating factor'' standard with respect to Title VII discrimination claims.

Since the ADEA uses the same language as Title VII, was modeled from it, and had been interpreted consistent with the Civil Rights Act, courts rightly and consistently held that, like a plaintiff claiming discrimination on the basis of race, sex, religion and national origin, a victim bringing suit under the ADEA need only show that membership in a protected class was a ''motivating factor'' in an employer's action. If an employee showed that age was one factor in an employment decision, the burden was on the employer to show it had acted for a legitimate reason other than age.

In Gross, the Court, addressing a question on which it did not grant certiorari, tore up this decades' old standard. In its place, the Court imposed a standard that makes it prohibitively difficult for a victim to prove age discrimination. According to the Court, a plaintiff bears the full burden of proving that age was not only a ''motivating'' factor but the ''but for'' factor, or decisive factor. And, unfortunately, lower courts have applied Gross to other civil rights claims, including cases arising under the Americans with Disabilities Act, the Rehabilitation Act and retaliation cases under Title VII of the Civil Rights Act of 1964.

The extremely high burden Gross imposes radically undermines workers' ability to hold employers accountable. Bear in mind, unlawful discrimination is often difficult to detect. Obviously, those who discriminate do not often admit they are acting for discriminatory reasons. Employers rarely post signs saying, for example, ''older workers need not apply.'' To the contrary, they go out of their way to conceal their true intent. And, only the employer is in a position to know his own mind and offer an explanation of why a decision that involves discrimination or retaliation was actually motivated by legitimate reasons. By putting the entire burden on the worker to demonstrate the absence or insignificance of other factors, the Court in effect has freed employers to discriminate or retaliate.

Unfortunately, as Mr. Gross and his colleagues know all too well, age discrimination does indeed occur. Countless thousands of American workers who are not yet ready to voluntarily retire find themselves jobless or passed over for promotions because of age discrimination. Older workers often face stereotypes: That they are not as productive as younger workers; that they cannot learn new skills; that they somehow have a lesser need for income to provide for their families.

Indeed, according to an AARP study, 60 percent of older workers have reported that they or someone they know has faced age discrimination in the workplace. According to the Equal Employment Opportunity Commission, in fiscal year 2011, over 23,000 age discrimination claims were filed, a more than 20 percent increase from just four years ago. And, given the stereotypes that older workers face, it is no surprise that on average they remain unemployed for more than twice as long as all unemployed workers.

The Protecting Older Workers Against Discrimination Act reiterates the principle that Congress established when it passed the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act and the Americans with Disabilities Act—when making employment decisions it is illegal for race, sex, national origin, religion, age or disability to be a factor.

The bill repudiates the Supreme Court's Gross v. FBL Financial decision and will restore the law to what it was for decades. It makes clear that when an employee shows discrimination was a ''motivating factor'' behind a decision, the burden is properly on the employer to show the same decision would have been made regardless of discrimination or retaliation. And, like the Civil Rights Act of 1991 with respect to discrimination cases under Title VII, if the employer meets that burden, the employer remains liable, but remedies are limited.

This is a common sense, bipartisan bill. In fact, the Civil Rights Act of 1991, key provisions of which served as a model for this legislation, passed the Senate on a bipartisan basis 93–5. Further, we are introducing this bill only after countless hours of consultation with civil rights stakeholders and representatives of the business community. Moreover, this bill addresses many of the concerns that were raised about an earlier version of the bill at a hearing held before the Health, Education, Labor, and Pensions Committee in March 2010.

In fact, I want to comment on two changes from that earlier version of this bill introduced in the last Congress. Since October 2009, when Senator LEAHY and I first introduced the Protecting Older Workers Against Discrimination Act, we have had the benefit of nearly two and a half years of lower court application of the Gross decision.

The 2009 bill would have expressly amended the ADEA to make clear that the analytical framework set out in McDonnell Douglas v. Green applied to that statute. Even though, before Gross, every Court of Appeals had held that McDonnell Douglas had applied to age claims, this clarification was meant to address a footnote in Gross in which the Court arguably questioned the applicability of McDonnell Douglas to the ADEA. Since the bill was first introduced, however, every lower court

that has examined the issue has continued to apply McDonnell Douglas to the ADEA. As a result, because McDonnell Douglas applies to the ADEA already, we deem it unnecessary to amend the statute.

Second, the initial bill expressly amended only the ADEA. Since Gross, however, lower courts have applied the Court's reasoning in that decision to other statutes. Because the most notable application has been to the ADA, Rehabilitation Act and Title VII retaliation claims, those statutes are expressly amended here too.

Finally, in Gross, the Court defended the Court's departure from well-established law by noting that it ''cannot ignore Congress' decision to amend Title VII's relevant provisions but not make similar changes to the ADEA.'' In other words, the Court found that because Congress, in the Civil Rights Act of 1991, codified the ''motivating factor'' framework for Title VII, but not for the ADEA, Congress somehow must have intended Price Waterhouse not to apply to any statute but Title VII.

Because of the Court's reasoning, I want to emphasize that this bill in no way questions the motivating factor framework for other anti-discrimination and anti-retaliation statutes that are not expressly covered by the legislation. As the bill's findings make clear, not only does this bill repudiate the Gross decision itself, but it expressly repudiates the reasoning underlying the decision, including the argument that Congress's failure to amend any statute other than Title VII means that Congress intended to disallow mixed motive claims under other statutes. It would be an error for a court to apply similar reasoning following passage of this bill to other statutes. The fact that other statutes are not expressly amended does not mean that Congress endorses Gross's application to any other statute.

In conclusion, this bill is very straightforward. It reiterates what Congress said 40 years ago when it passed the ADEA—when making employment decisions it is illegal for age to be a factor. A person should not be judged arbitrarily because he or she was born in a certain year or earlier when he or she still has the ability to contribute as much, or more, as the next person. This bill will help ensure that all our citizens will have an equal opportunity, commensurate with their abilities, for productive employment.

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. 2189

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 ''Protecting Older Workers Against Discrimination Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) In enacting the Age Discrimination in Employment Act of 1967 (referred to in this section as the ''ADEA''), Congress intended to eliminate workplace discrimination against individuals 40 and older based on age.

(2) In enacting the Civil Rights Act of 1991, Congress reaffirmed its understanding that unlawful discrimination is often difficult to detect and prove because discriminators do not usually admit their discrimination and often try to conceal their true motives.

(3) Congress intended that courts would interpret Federal statutes, such as the ADEA, that are similar in their text or purpose to title VII of the Civil Rights Act of 1964, in ways that were consistent with the ways in which courts had interpreted similar provisions in that title VII. The Supreme Court's decision in Gross v. FBL Financial Services, Inc., 129 S. Ct. 2343 (2009), departed from this intent and circumvented well-established precedents.

(4) Congress disagrees with the Supreme Court's interpretation, in Gross, of the ADEA and with the reasoning underlying the decision, specifically language in which the Supreme Court—

(A) interpreted Congress' failure to amend any statute other than title VII of the Civil Rights Act of 1964 in enacting section 107 of the Civil Rights Act of 1991 (adding section 703(m) of the Civil Rights Act of 1964), to mean that Congress intended to disallow mixed motive claims under other statutes;

(B) declined to apply the Supreme Court's ruling in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), a part of which was subsequently approved by Congress, and enacted into law by section 107 of the Civil Rights Act of 1991, as section 703(m) of the Civil Rights Act of 1964, which provides that an unlawful employment practice is established when a protected characteristic was a motivating factor for any employment practice, even though other factors also motivated the practice;

(C) interpreted causation language and standards, including the words ''because of'' that are similar in their text or purpose to title VII of the Civil Rights Act of 1964, in a manner that departed from established precedent;

(D) held that mixed motive claims were unavailable under the ADEA; and

(E) indicated that other established causation standards and methods of proof, including the use of any type or form of admissible circumstantial or direct evidence as recognized in Desert Palace Inc. v. Costa, 539 U.S. 90 (2003), or the availability of the analytical framework set out in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), might not apply to the ADEA.

(5) Lower courts have applied Gross to a wide range of Federal statutes, such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(6) The Gross decision has significantly narrowed the scope of protections intended to be afforded by the ADEA.

(7) Congress must restore and reaffirm established causation standards and methods of proof to ensure victims of unlawful discrimination and retaliation are able to enforce their rights.

(b) PURPOSES.—The purposes of this Act include—

(1) to restore the availability of mixed motive claims and to reject the requirements the Supreme Court enunciated in Gross v. FBL Financial Services, Inc., 129 S. Ct. 2343 (2009), that a complaining party always bears the burden of proving that a protected characteristic or protected activity was the ''but for'' cause of an unlawful employment practice;

(2) to reject the Supreme Court's reasoning in Gross that Congress' failure to amend any statute other than title VII of the Civil Rights Act of 1964, in enacting section 107 of the Civil Rights Act of 1991, suggests that Congress intended to disallow mixed motive claims under other statutes; and

(3) to establish that under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), complaining parties—

(A) may rely on any type or form of admissible evidence to establish their claims;

(B) are not required to demonstrate that the protected characteristic or activity was the sole cause of the employment practice; and

(C) may demonstrate an unlawful practice through any available method of proof, including the analytical framework set out in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

SEC. 3. STANDARDS OF PROOF.

(a) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—

(1) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF AGE IN EMPLOYMENT PRACTICES.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by inserting after subsection (f) the following:

''(g)(1) Except as otherwise provided in this Act, an unlawful practice is established under this Act when the complaining party demonstrates that age or an activity protected by subsection (d) was a motivating factor for any practice, even though other factors also motivated the practice.

''(2) In establishing an unlawful practice under this Act, including under paragraph (1) or by any other method of proof, a complaining party—

''(A) may rely on any type or form of admissible evidence and need only produce evidence sufficient for a reasonable trier of fact to find that an unlawful practice occurred under this Act; and

''(B) shall not be required to demonstrate that age or an activity protected by subsection (d) was the sole cause of a practice.''.

(2) REMEDIES.—Section 7 of such Act (29 U.S.C. 626) is amended—

(A) in subsection (b)—

(i) in the first sentence, by striking ''The'' and inserting ''(1) The'';

(ii) in the third sentence, by striking ''Amounts'' and inserting the following:

''(2) Amounts'';

(iii) in the fifth sentence, by striking ''Before'' and inserting the following:

''(4) Before''; and

(iv) by inserting before paragraph (4), as designated by clause (iii) of this subparagraph, the following:

''(3) On a claim in which an individual demonstrates that age was a motivating factor for any employment practice, under section 4(g)(1), and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

''(A) may grant declaratory relief, injunctive relief (except as provided in subparagraph (B)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 4(g)(1); and

''(B) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.''; and

(B) in subsection (c)(1), by striking ''Any'' and inserting ''Subject to subsection (b)(3), any''.

(3) DEFINITIONS.—Section 11 of such Act (29 U.S.C. 630) is amended by adding at the end the following:

''(m) The term 'demonstrates' means meets the burdens of production and persuasion.''.

(4) FEDERAL EMPLOYEES.—Section 15 of such Act (29 U.S.C. 633a) is amended by adding at the end the following:

''(h) Sections 4(g) and 7(b)(3) shall apply to mixed motive claims (involving practices described in section 4(g)(1)) under this section.''.

(b) TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) is amended by striking subsection (m) and inserting the following:

''(m) Except as otherwise provided in this title, an unlawful employment practice is established under this title when the complaining party demonstrates that race, color, religion, sex, or national origin or an activity protected by section 704(a) was a motivating factor for any employment practice, even though other factors also motivated the practice.''.

(2) FEDERAL EMPLOYEES.—Section 717 of such Act (42 U.S.C. 2000e–16) is amended by adding at the end the following:

''(g) Sections 703(m) and 706(g)(2)(B) shall apply to mixed motive cases (involving practices described in section 703(m)) under this section.''.

(c) AMERICANS WITH DISABILITIES ACT OF 1990.—

(1) DEFINITIONS.—Section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) is amended by adding at the end the following:

''(11) DEMONSTRATES.—The term 'demonstrates' means meets the burdens of production and persuasion.''.

(2) CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF DISABILITY IN EMPLOYMENT PRACTICES.—Section 102 of such Act (42 U.S.C. 12112) is amended by adding at the end the following:

''(e) PROOF.—

''(1) ESTABLISHMENT.—Except as otherwise provided in this Act, a discriminatory practice is established under this Act when the complaining party demonstrates that disability or an activity protected by subsection (a) or (b) of section 503 was a motivating factor for any employment practice, even though other factors also motivated the practice.

''(2) DEMONSTRATION.—In establishing a discriminatory practice under paragraph (1) or by any other method of proof, a complaining party—

''(A) may rely on any type or form of admissible evidence and need only produce evidence sufficient for a reasonable trier of fact to find that a discriminatory practice occurred under this Act; and

''(B) shall not be required to demonstrate that disability or an activity protected by subsection (a) or (b) of section 503 was the sole cause of an employment practice.''.

(3) CERTAIN ANTIRETALIATION CLAIMS.—Section 503(c) of such Act (42 U.S.C. 12203(c)) is amended—

(A) by striking ''The remedies'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the remedies''; and

(B) by adding at the end the following:

''(2) CERTAIN ANTIRETALIATION CLAIMS.—Section 107(c) shall apply to claims under section 102(e)(1) with respect to title I.''.

(4) REMEDIES.—Section 107 of such Act (42 U.S.C. 12117) is amended by adding at the end the following:

''(c) DISCRIMINATORY MOTIVATING FACTOR.—On a claim in which an individual demonstrates that disability was a motivating factor for any employment practice, under section 102(e)(1), and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

''(1) may grant declaratory relief, injunctive relief (except as provided in paragraph (2)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 102(e)(1); and

''(2) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment.''.

(d) REHABILITATION ACT OF 1973.—

(1) IN GENERAL.—Sections 501(g), 503(d), and 504(d) of the Rehabilitation Act of 1973 (29 U.S.C. 791(g), 793(d), and 794(d)), are each amended by adding after the words ''title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.)'' the following: '', including the standards of causation or methods of proof applied under section 102(e) of that Act (42 U.S.C. 12112(e))),''.

(2) FEDERAL EMPLOYEES.—The amendment made by paragraph (1) to section 501(g) shall be construed to apply to all employees covered by section 501.

SEC. 4. APPLICATION.

This Act, and the amendments made by this Act, shall apply to all claims pending on or after the date of enactment of this Act.

Mr. LEAHY. Mr. President, today, I am pleased to join Senators HARKIN and GRASSLEY in introducing the Protecting Older Workers Against Discrimination Act. This bipartisan bill seeks to restore crucial worker protections that have been cast aside by a narrow, 5–4 Supreme Court decision. The bill also reaffirms the contributions made by older Americans in the workforce and ensures that employees will be evaluated based on their performance and not by arbitrary criteria such as age.

Congress has long worked to enact civil rights laws to eliminate discrimination in the workplace. In 1967, Congress passed the Age Discrimination and Employment Act, ADEA, with the intent to extend protections against workplace discrimination to older workers. We strengthened these protections in the Civil Rights Act of 1991, which passed in the Senate 93 to five. These statutes established a clear legal standard and Congressional intent: an employer's decision to fire or demote an employee may not be motivated in whole or in part by the employee's age.

However, the 2009 Supreme Court decision in Gross v. FBL unilaterally erased that clear legal standard. A slim 5–4 majority threw out a jury verdict in favor Jack Gross, a 32-year employee of a major financial company, who sued under the ADEA. The jury had concluded that age was a motivating factor in the company's decision to demote Gross and reassign his duties to a younger, significantly less qualified worker. But a divisive Supreme Court ignored its own precedent and congressional intent.

Five justices decided that workers like Mr. Gross must now prove that age was the only motivating factor in a demotion or termination. The Court also required workers to essentially introduce a ''smoking gun'' in order to prove discrimination. By imposing such high standards, the Court sided with big business and made it easier for employers to discriminate on the basis of age with impunity so long as they could cloak it with another reason. As Mr. Gross stated during a Judiciary Committee hearing that I held shortly after this controversial decision was handed down, ''I feel like my case has been hijacked by the high court for the sole purpose of rewriting both the letter and the spirit of the ADEA.''

The Supreme Court's divisive holding has created much uncertainty in our civil rights laws and it is incumbent on Congress to clarify our intent and the statutory protections that all hardworking Americans deserve. The Protecting Older Workers Against Discrimination Act restores the original intent of the ADEA and three other Federal anti-discrimination statutes. It makes clear that employers cannot get away with age discrimination by simply coming up with a reason to terminate an employee that sounds less controversial. The bill re-establishes Congress' intent that age discrimination is unlawful even if it is only part of the reason to demote a worker. Under the bill, a worker would also be able to introduce any relevant admissible form of evidence to show discrimination, whether the evidence is direct or circumstantial.

To avoid future misreading of congressional intent, I encourage Federal courts to take particular note of the carefully negotiated ''Findings and Purposes'' section in this bipartisan bill. The bill unequivocally rejects the Supreme Court's reasoning in Gross not only in age discrimination cases but in all cases where courts have applied this case as binding precedent. In other words, Gross is not the proper legal standard for anti-discrimination statutes, whether or not a particular statute is directly amended by this bill.

I commend Senator HARKIN for his efforts over the past three years to negotiate a bipartisan bill to restore the civil rights protections that all Americans deserve in the workplace. I also thank Senator GRASSLEY, the Ranking Member of the Judiciary Committee, for his commitment to this issue. I urge my fellow Senators to join this bipartisan effort and show their commitment to ending age discrimination in the workplace. In these difficult economic times, hardworking Americans deserve our help. We must not allow a thin majority of the Supreme Court to eliminate the protections that Congress has enacted for them.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 395—EXPRESSING THE SENSE OF THE SENATE IN SUPPORT OF THE NORTH ATLANTIC TREATY ORGANIZATION AND THE NATO SUMMIT TO BE HELD IN CHICAGO, ILLINOIS FROM MAY 20 THROUGH 21, 2012

Mr. DURBIN (for himself, Mr. KIRK, and Mrs. SHAHEEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 395

Whereas the North Atlantic Treaty, signed April 4, 1949, in Washington, District of Columbia, which created the North Atlantic Treaty Organization (referred to in this preamble as ''NATO''), proclaims: ''[Members] are determined to safeguard the freedom, common heritage and civilisation of their peoples, founded on the principles of democracy, individual liberty and the rule of law. They seek to promote stability and well-being in the North Atlantic area. They are resolved to unite their efforts for collective defence and for the preservation of peace and security.'';

Whereas NATO has been the cornerstone of transatlantic security cooperation and an enduring instrument for promoting stability in Europe and throughout the world for over 60 years;

Whereas the NATO summit in Chicago, Illinois is an opportunity to enhance and more deeply entrench those principles, which continue to bind the alliance together and guide our efforts today;

Whereas the new Strategic Concept, approved in Lisbon, Spain in November 2010, affirms that all NATO members ''are determined that NATO will continue to play its unique and essential role in ensuring our common defence and security'' and that NATO ''continues to be effective in a changing world, against new threats, with new capabilities and new partners'';

Whereas the Chicago Summit will mark a critical turning point for NATO and a chance to focus on current operations, future capabilities, and the relationship between NATO and partners around the world;

Whereas the Chicago Summit will be the first NATO summit held in the United States since the 50th anniversary summit was held in Washington, District of Columbia in 1999 and the first NATO summit held outside of Washington, District of Columbia;

Whereas NATO Secretary General Anders Fogh Rasmussen said, ''Chicago is a city built upon diversity, and on determination. Those are values that underpin NATO too.'';

Whereas the Chicago Summit presents an opportunity to show to the world the Heartland of the United States—the site of the first elevated railway, the first skyscraper in the world, the busiest futures exchange in the world, and the starting point for historic Route 66;

Whereas the thousands of visitors to the Chicago Summit will have the opportunity to enjoy the hospitality of the city of Chicago, the 77 distinct neighborhoods in Chicago, and the State of Illinois; and

Whereas the contributions of generations of immigrants have made the city of Chicago and the State of Illinois what they are today and the ancestral homelands of the immigrants now contribute to making NATO the organization it is today: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the service of the brave men and women who have served to safeguard the freedom and security of the United States and the whole of the transatlantic alliance;

(2) honors the sacrifices of United States personnel, allies of the North American Treaty Organization (referred to in this resolution as ''NATO''), and partners in Afghanistan;

(3) remembers the 63 years NATO has served to ensure peace, security, and stability in Europe and throughout the world;

(4) reaffirms that NATO, through the new Strategic Concept, is oriented for the changing international security environment and the challenges of the future;

(5) urges all NATO members to take concrete steps to implement the Strategic Concept and to utilize the NATO summit in Chicago, Illinois to address current NATO operations, future capabilities and burden-sharing issues, and the relationship between NATO and partners around the world;

(6) conveys appreciation for the steadfast partnership between NATO and the United States; and

(7) expresses support for the 2012 NATO summit in Chicago.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1830. Mrs. BOXER proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

TEXT OF AMENDMENTS

SA. 1830. Mrs. BOXER proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

On page 1, line 7, strike ''4'' and insert ''6''.

On page 2, between lines 1 and 2, insert the following:

(5) Division E–Research and Education.

(6) Division F–Budgetary Effects.

On page 21, strike lines 5 through 10 and insert the following:

the unobligated balance of amounts—

(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under sections 202 or 204 of title 23, United States Code); and

(B) for which obligation authority was provided in a previous fiscal year;

On page 22, strike lines 6 through 9 and insert the following:

each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States Code, or apportioned by the Secretary under sections 202 or 204 of that title, by multiplying—

On page 22, line 25, insert ''and the amounts apportioned under section 204 of that title'' after ''(b)(12)''.

On page 24, line 8, strike ''title II'' and insert ''division E''.

On page 24, line 23, insert ''(excluding funds authorized for the program under section 202 of title 23, United States Code)'' after ''funds''.

On page 25, line 5, insert ''(or will not be apportioned to the States under section 204 of title 23, United States Code)'' after ''States''.

On page 25, strike lines 17 through 20.

On page 84, strike line 6 and insert the following:

tory shall be considered to be a Governor of a State.

''(g) PROTECTING PUBLIC SAFETY AND MAINTAINING ROADWAYS.—The Secretary may use amounts from the emergency fund authorized by this section to carry out projects that the Secretary determines are necessary to protect public safety or to maintain or protect roadways that have been included within the scope of a prior emergency declaration in order to maintain the continuation of roadway services on roads that are threatened by continuous or frequent flooding.''.

On page 94, strike line 6 and all that follows through page 95, line 7, and insert the following:

''(A) SET-ASIDE.—Of the amounts apportioned to a State for fiscal year 2012 and each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (c)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009.

''(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

On page 167, strike lines 1 through 3 and insert the following:

''(V) a school district, local education agency, or school;

''(VI) a tribal government; and

''(VII) any other local or regional

On page 168, strike line 21 and insert the following:

''a Federal-aid highway under this chapter.

''(7) CONTINUATION OF CERTAIN RECREATIONAL TRAILS PROJECTS.—Each State that does not opt out of this paragraph shall—

''(A) obligate an amount of funds reserved under this section equal to the amount of the funds apportioned to the State for fiscal year 2009 under section 104(h)(2) for projects relating to recreational trails under section 206;

''(B) return 1 percent of those funds to the Secretary for the administration of that program; and

''(C) comply with the provisions of the administration of the recreational trails program under section 206, including the use of apportioned funds described under subsection (d)(3)(A) of that section.

''(8) STATE FLEXIBILITY.—A State may opt out of the recreational trails program under paragraph (7) if the Governor of the State notifies the Secretary not later than 30 days prior to apportionments being made for any fiscal year.''.

On page 210, line 19, strike ''ADMINISTRATIVE EXPENSES'' and insert ''TRIBAL TECHNICAL ASSISTANCE CENTERS''.

Beginning on page 217, strike line 15 and all that follows through page 218, line 1, and insert the following:

''(aa) for each Indian tribe, 80 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(II) For fiscal year 2013—

''(aa) for each Indian tribe, 60 percent of the total relative need distribution factor and population adjustment factor for the fiscal year 2011 funding amount made available to that Indian tribe; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(III) For fiscal year 2014—