

MCCONNELL, Mr. BARRASSO, Ms. AKAKA, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CONRAD, Mr. COONS, Mr. DURBIN, Mr. FRANKEN, Mr. HARKIN, Mr. INOUE, Mr. JOHNSON of South Dakota, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MANCHIN, Mr. MENENDEZ, Mr. MERKLEY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. REED of Rhode Island, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. TESTER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WYDEN, and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 114

Whereas Congresswoman Geraldine A. Ferraro served the people of the Ninth Congressional District of New York for 6 years;

Whereas Congresswoman Ferraro worked her way through law school at Fordham University, at a time when very few women did so;

Whereas Congresswoman Ferraro then joined the Queens County District Attorney's Office, where she supervised the prosecution of a variety of violent crimes, including child and domestic abuse;

Whereas in 1978, New York's Ninth Congressional District in Queens elected Congresswoman Ferraro to the U.S. House of Representatives, where she was one of only 16 women members of the House;

Whereas when she was nominated as the running mate of Vice President Walter F. Mondale in the 1984 presidential race, Congresswoman Ferraro became the first woman ever chosen to run on the national ticket of either of the 2 major political parties of the United States;

Whereas Congresswoman Ferraro's candidacy continues the progress begun by women who achieved political firsts before her and helped to tear down barriers to the full and equal participation of women in national politics;

Whereas in January 1993, President Clinton appointed Ms. Ferraro a United States Ambassador to the United Nations Commission on Human Rights, a role from which she championed the rights of women around the world; and

Whereas Geraldine Ferraro's 1984 bid for Vice President helped our daughters join our sons in believing they could achieve anything they set their minds to: Now, therefore, be it

*Resolved, That—*

(1) the Senate recognizes that Geraldine A. Ferraro's vice-presidential candidacy forever enriched the American political landscape and forged a new path for women of the United States;

(2) the Senate pays tribute to Congresswoman Geraldine A. Ferraro's work to improve the lives of women and families not only in the Ninth Congressional District of New York, whom she represented so well, but also the lives of women and families all across the United States;

(3) the Senate requests the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Congresswoman Geraldine A. Ferraro; and

(4) when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Congresswoman Geraldine A. Ferraro.

AMENDMENTS SUBMITTED AND PROPOSED

SA 258. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. COCHRAN, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table.

SA 259. Ms. KLOBUCHAR (for herself and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 260. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 493, supra; which was ordered to lie on the table.

SA 261. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 493, supra; which was ordered to lie on the table.

SA 262. Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 493, supra; which was ordered to lie on the table.

SA 263. Mr. MENENDEZ (for himself, Mr. KERRY, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 161 proposed by Mr. JOHANNIS (for himself and Mr. MANCHIN) to the bill S. 493, supra; which was ordered to lie on the table.

SA 264. Ms. KLOBUCHAR (for herself and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 265. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 266. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 267. Mr. TESTER (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 493, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 258. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. COCHRAN, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 504. EXTENSION OF THE PLACED IN SERVICE DATE FOR LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.**

Section 1400N(c)(5) of the Internal Revenue Code of 1986 is amended by striking "January 1, 2012" and inserting "January 1, 2013".

SA 259. Ms. KLOBUCHAR (for herself and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 116, after line 24, add the following:

**SEC. 504. EXEMPTION OF OFF-HIGHWAY VEHICLES FROM BAN ON LEAD IN CHILDREN'S PRODUCTS.**

(a) EXEMPTION.—Section 101(b) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCEPTION FOR OFF-HIGHWAY VEHICLES.—

“(A) IN GENERAL.—Subsection (a) shall not apply to an off-highway vehicle.

“(B) OFF-HIGHWAY VEHICLE DEFINED.—For purposes of this section, the term ‘off-highway vehicle’—

“(i) means any motorized vehicle—

“(I) that is manufactured primarily for use off of public streets, roads, and highways;

“(II) designed to travel on 2 or 4 wheels; and

“(III) having either—

“(aa) a seat designed to be straddled by the operator and handlebars for steering control; or

“(bb) a nonstraddle seat, steering wheel, seat belts, and roll-over protective structure; and

“(ii) includes a snowmobile.”.

(b) ADDITIONAL AMENDMENT.—Such section is further amended in paragraph (1)(A) by striking “any”.

SA 260. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 504. MANUFACTURING OPPORTUNITIES FOR SBIR AND STTR PROGRAMS.**

The Administration shall establish a portal within the centralized SBIR website that—

(1) announces manufacturing opportunities when available; and

(2) publishes any Administration rules and guidance relating to such opportunities.

SA 261. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, line 13, after “agency” insert “, including in the manufacturing sector and, to the extent practicable, the effects of patent rights granted to inventions arising out of SBIR on job creation and savings in the manufacturing sector”.

SA 262. Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. \_\_\_\_ . MARKET RESEARCH TO IDENTIFY QUALIFIED RECIPIENTS OF AWARDS UNDER THE SBIR OR STTR PROGRAM.**

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

“(s) SBIR AND STTR AWARDEES.—

“(1) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘covered contract’ means a contract to perform research, development, or production that has an expected annual value that is more than \$150,000 and not more than \$25,000,000;

“(B) the term ‘recipient of an award under an SBIR program or STTR program’ includes

a team of small business concerns that received an award under an SBIR program or STTR program; and

“(C) the terms ‘SBIR program’ and ‘STTR program’ have the meanings given those terms under section 9.

“(2) MARKET RESEARCH.—Before a contracting officer for a Federal agency issues a request for proposals relating to a covered contract, the contracting officer shall perform market research to determine whether a recipient of an award under the SBIR program or STTR program is qualified to perform the covered contract using technology developed using the award.

“(3) FULL AND FAIR CONSIDERATION.—If a contracting officer for a Federal agency identifies a recipient described in paragraph (2) after performing market research under paragraph (2), the contracting officer shall ensure that the recipient is given full and fair consideration in the award of the covered contract.”.

**SA 263.** Mr. MENENDEZ (for himself, Mr. KERRY, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 161 proposed by Mr. JOHANNIS (for himself and Mr. MANCHIN) to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, before line 1, insert the following:

(b) STUDY OF THE EFFECTS ON SMALL BUSINESSES OF INCREASES IN THE AMOUNTS OF HEALTH CARE CREDIT OVERPAYMENTS RE-QUIRED TO BE RECAPTURED.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine if the amendments made by this section—

(A) will result in an increase in health insurance premiums within the Exchanges created by the Patient Protection and Affordable Care Act for employees or owners of small businesses; or

(B) will result in an increase in the number of individuals who do not have health insurance coverage, a disproportionate share of which are employees and owners of small businesses.

(2) EFFECT OF INCREASES.—If the Secretary determines under paragraph (1) that there will be an increase described in subparagraph (A) or (B), or both, then the amendments made by this section shall not apply to taxable years ending after the date of such determination and the Internal Revenue Code of 1986 shall be applied and administered to such taxable years as if such amendments had never been enacted.

**SA 264.** Ms. KLOBUCHAR (for herself and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 116, after line 24, add the following:

**SEC. 504. EXEMPTION OF OFF-HIGHWAY VEHICLES FROM BAN ON LEAD IN CHILDREN'S PRODUCTS.**

Section 101(b) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCEPTION FOR OFF-HIGHWAY VEHICLES.—

“(A) IN GENERAL.—Subsection (a) shall not apply to an off-highway vehicle.

“(B) OFF-HIGHWAY VEHICLE DEFINED.—For purposes of this section, the term ‘off-highway vehicle’—

“(i) means any motorized vehicle—

“(I) that is manufactured primarily for use off of public streets, roads, and highways;

“(II) designed to travel on 2 or 4 wheels; and

“(III) having either—

“(aa) a seat designed to be straddled by the operator and handlebars for steering control; or

“(bb) a nonstraddle seat, steering wheel, seat belts, and roll-over protective structure; and

“(ii) includes a snowmobile.”.

**SA 265.** Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 116, after line 24, add the following:

**SEC. 504. SUSPENSION OF STATIONARY SOURCE GREENHOUSE GAS REGULATIONS.**

(a) DEFINED TERM.—In this section, the term “greenhouse gas” means—

- (1) water vapor;
- (2) carbon dioxide;
- (3) methane;
- (4) nitrous oxide;
- (5) sulfur hexafluoride;
- (6) hydrofluorocarbons;
- (7) perfluorocarbons; and

(8) any other substance subject to, or proposed to be subject to, any regulation, action, or consideration under the Clean Air Act (42 U.S.C. 7401 et seq.) to address climate change.

(b) IN GENERAL.—Except as provided in subsection (d), and notwithstanding any provision of the Clean Air Act (42 U.S.C. 7401 et seq.), any requirement, restriction, or limitation under such Act relating to a greenhouse gas that is designed to address climate change, including any permitting requirement or requirement under section 111 of such Act (42 U.S.C. 7411), shall not be legally effective during the 2-year period beginning on the date of the enactment of this Act.

(c) TREATMENT.—Notwithstanding any other provision of law, any action by the Administrator of the Environmental Protection Agency before the end of the 2-year period described in subsection (b) that attempts to classify a greenhouse gas as a pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.), except for purposes other than addressing climate change, for any source other than a new motor vehicle or a new motor vehicle engine (as described in section 202(a) of such Act (42 U.S.C. 7521(a))) shall not be legally effective during such period.

(d) EXCEPTIONS.—Subsections (b) and (c) shall not apply to—

(1) the implementation and enforcement of the rule entitled “Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards” (75 Fed. Reg. 25324 (May 7, 2010) and without further revision); or

(2) the finalization, implementation, enforcement, and revision of the proposed rule entitled “Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles” published at 75 Fed. Reg. 74152 (November 30, 2010).

**SEC. 505. GREENHOUSE GAS EMISSION STANDARDS.**

(a) PRESERVING ONE NATIONAL STANDARD FOR AUTOMOBILES.—Section 209(b) of the

Clean Air Act (42 U.S.C. 7543) is amended by adding at the end the following:

“(4) With respect to standards for emissions of greenhouse gases (as defined in section 330) for model year 2017 or any subsequent model year for new motor vehicles and new motor vehicle engines—

“(A) the Administrator may not waive application of subsection (a); and

“(B) no waiver granted prior to the date of enactment of this paragraph may be considered to waive the application of subsection (a).”.

(b) AGRICULTURAL SOURCES.—In calculating the emissions or potential emissions of a source or facility, emissions of greenhouse gases that are subject to regulation under title III of the Clean Air Act (42 U.S.C. 7601 et seq.) solely on the basis of the effect of the gases on global climate change shall be excluded if the emissions are from—

- (1) direct or indirect changes in land use;
- (2) the growing of commodities, biomass, fruits, vegetables, or other crops;
- (3) the raising of stock, dairy, poultry, or fur-bearing animals; or
- (4) farms, forests, plantations, ranches, nurseries, ranges, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

**SEC. 506. ENERGY SECURITY.**

(a) SHORT TITLE.—This section may be cited as the “Security in Energy and Manufacturing Act of 2011” or the “SEAM Act of 2011”.

(b) EXTENSION OF THE ADVANCED ENERGY PROJECT CREDIT.—

(1) IN GENERAL.—Subsection (d) of section 48C of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) ADDITIONAL 2011 ALLOCATIONS.—

“(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish a program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors with respect to applications received on or after the date of the enactment of this paragraph.

“(B) LIMITATION.—The total amount of credits that may be allocated under the program described in subparagraph (A) shall not exceed the 2011 allocation amount reduced by so much of the 2011 allocation amount as is taken into account as an increase in the limitation described in paragraph (1)(B).

“(C) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of paragraphs (2), (3), (4), and (5) shall apply for purposes of the program described in subparagraph (A), except that—

“(i) CERTIFICATION.—Applicants shall have 2 years from the date that the Secretary establishes such program to submit applications.

“(ii) SELECTION CRITERIA.—For purposes of paragraph (3)(B)(i), the term ‘domestic job creation (both direct and indirect)’ means the creation of direct jobs in the United States producing the property manufactured at the manufacturing facility described under subsection (c)(1)(A)(i), and the creation of indirect jobs in the manufacturing supply chain for such property in the United States.

“(iii) REVIEW AND REDISTRIBUTION.—The Secretary shall conduct a separate review and redistribution under paragraph (5) with respect to such program not later than 4 years after the date of the enactment of this paragraph.

“(D) 2011 ALLOCATION AMOUNT.—For purposes of this subsection, the term ‘2011 allocation amount’ means \$5,000,000,000.

“(E) DIRECT PAYMENTS.—In lieu of any qualifying advanced energy project credit which would otherwise be determined under this section with respect to an allocation to a taxpayer under this paragraph, the Secretary shall, upon the election of the taxpayer, make a grant to the taxpayer in the amount of such credit as so determined. Rules similar to the rules of section 50 shall apply with respect to any grant made under this subparagraph.”

(2) PORTION OF 2011 ALLOCATION ALLOCATED TOWARD PENDING APPLICATIONS UNDER ORIGINAL PROGRAM.—Subparagraph (B) of section 48C(d)(1) of such Code is amended by inserting “(increased by so much of the 2011 allocation amount (not in excess of \$1,500,000,000) as the Secretary determines necessary to make allocations to qualified investments with respect to which qualifying applications were submitted before the date of the enactment of paragraph (6))” after “\$2,300,000,000”.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “48C(d)(6)(E),” after “36C.”

**SA 266.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE \_\_\_\_\_ SMALL BUSINESS LENDING FUND**

**SEC. \_\_\_\_ 01. SHORT TITLE.**

This title may be cited as the “Greater Accountability in the Lending Fund Act of 2011”.

**SEC. \_\_\_\_ 02. REPAYMENT DEADLINE UNDER THE SMALL BUSINESS LENDING FUND PROGRAM.**

(a) IN GENERAL.—Section 4103(d)(5)(H) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

- (1) in clause (i)—
  - (A) in subclause (I), by striking “; or” and inserting a period;
  - (B) by striking subclause (II); and
  - (C) by striking “will—” and all that follows through “be repaid” and inserting “will be repaid”;
  - (2) by striking clause (ii); and
  - (3) by striking “that—” and all that follows through “includes,” and inserting “that includes,”.

(b) EFFECTIVE DATE; APPLICABILITY; SAVINGS CLAUSE.—

(1) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any investment made by the Secretary of the Treasury under the Small Business Lending Fund Program established under section 4103(a)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) (in this subsection referred to as the “Program”) on or after the date of enactment of this Act.

(2) SAVINGS CLAUSE.—Notwithstanding the amendments made by this section, an investment made by the Secretary of the Treasury under the Program before the date of enactment of this Act shall remain in full force and effect under the terms and conditions under the investment.

**SEC. \_\_\_\_ 03. SMALL BUSINESS LENDING FUND SUNSET.**

Section 4109 of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in subsection (b), by inserting “and shall be limited by the termination date in subsection (c)” before the period at the end; and

(2) by adding at the end the following:

“(C) TERMINATION OF PROGRAM.—

“(1) INVESTMENTS.—On and after the date that is 15 years after the date of enactment of this Act, the Federal Government may not own any preferred stock or other financial instrument purchased under this subtitle or otherwise maintain any capital investment in an eligible institution made under this subtitle.

“(2) AUTHORITIES.—Except as provided in subsection (a), all the authorities provided under this subtitle shall terminate 15 years after the date of enactment of this Act.”

**SEC. \_\_\_\_ 04. SMALL BUSINESS LENDING FUND TRIGGER.**

Section 4109 of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note), as amended by section \_\_\_\_ 03, is amended by adding at the end the following:

“(d) FDIC RECEIVERSHIP.—The Secretary may not make any purchases, including commitments to purchase, under this subtitle if the Federal Deposit Insurance Corporation is appointed receiver of 5 percent or more of the number of eligible institutions that receive a capital investment under the Program.”

**SEC. \_\_\_\_ 05. SMALL BUSINESS LENDING FUND LIMITATION.**

(a) IN GENERAL.—Section 4103(d) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

- (1) by striking “, less the amount of any CDCI investment and any CPP investment” each place it appears;
- (2) by striking paragraph (7);
- (3) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively; and
- (4) by adding at the end the following:

“(10) PROHIBITION ON TARP PARTICIPANTS PARTICIPATING IN THE PROGRAM.—An institution in which the Secretary made a investment under the CPP, the CDCI, or any other program established by the Secretary under the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.) shall not be eligible to participate in the Program.”

(b) EFFECTIVE DATE; APPLICABILITY; SAVINGS CLAUSE.—

(1) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any investment made by the Secretary of the Treasury under the Small Business Lending Fund Program established under section 4103(a)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) (in this subsection referred to as the “Program”) on or after the date of enactment of this Act.

(2) SAVINGS CLAUSE.—Notwithstanding the amendments made by this section, an investment made by the Secretary of the Treasury under the Program before the date of enactment of this Act shall remain in full force and effect under the terms and conditions under the investment.

**SEC. \_\_\_\_ 06. PRIVATE INVESTMENTS UNDER THE SMALL BUSINESS LENDING FUND PROGRAM.**

Section 4103(d)(3) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

- (1) in the paragraph heading, by striking “MATCHED”; and
- (2) in subparagraph (B)(i), by striking “both under the Program and”.

**SEC. \_\_\_\_ 07. APPROVAL OF REGULATORS.**

(a) IN GENERAL.—Section 4103(d)(2) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) in the paragraph heading, by striking “CONSULTATION WITH” and inserting “APPROVAL OF”;

(2) in the matter preceding subparagraph (A), by striking “the Secretary shall” and inserting “the Secretary may not make a purchase under this subtitle unless”;

(3) in subparagraph (A)—

- (A) by striking “consult with”; and
- (B) by striking “to determine whether the eligible institution may receive” and inserting “determines that, based on the financial condition of the eligible institution, the eligible institution should receive”;

(4) in subparagraph (B)—

(A) by striking “consider any views received from”; and

(B) by striking “regarding the financial condition of the eligible institution” and inserting “determines that, based on the financial condition of the eligible institution, the eligible institution should receive such capital investment”; and

(5) in subparagraph (C)—

- (A) by striking “consult with”; and
- (B) by inserting “determines that, based on the financial condition of the eligible institution, the eligible institution should receive such capital investment” before the period at the end.

(b) CONFORMING AMENDMENTS.—Section 4103(d)(3)(A) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended—

(1) by striking “to be consulted under paragraph (2) would not otherwise recommend” and inserting “required to make a determination under paragraph (2) does not approve”;

- (2) by striking “to be so consulted”; and
- (3) by striking “to be consulted would recommend” and insert “would approve”.

**SEC. \_\_\_\_ 08. BENCHMARK FOR SMALL BUSINESS LENDING.**

Section 4103(d)(5)(A)(ii) of the Small Business Jobs Act of 2010 (12 U.S.C. 4741 note) is amended by striking “for the 4 full quarters immediately preceding the date of enactment of this Act” and inserting “during calendar year 2007”.

**SA 267.** Mr. TESTER (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VI—DEBIT INTERCHANGE FEE STUDY**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Debit Interchange Fee Study Act of 2011”.

**SEC. 602. FINDINGS.**

Congress finds that—

(1) in response to the proposed debit interchange rule of the Board of Governors of the Federal Reserve System mandated by section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Chairman of Board, the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration Board have publicly raised concerns about the impact of the proposed rule;

(2) while testifying before the Committee on Banking, Housing, and Urban Affairs of the Senate on February 17, 2011, the Chairman of the Board stated in response to questions about the small bank exemption to the interchange rule, “. . . there is some risk that the exemption will not be effective and that the interchange fees available through smaller institutions will be reduced to the same extent we would see for larger banks”;

(3) the Acting Comptroller of the Currency, in comments to the Board, cited safety and soundness concerns and stated, “. . . we believe the proposal takes an unnecessarily

narrow approach to recovery of costs that would be allowable under the law and that are recognized and indisputably part of conducting a debit card business. This has long-term safety and soundness consequences—for banks of all sizes. . .”;

(4) the chairperson of the Federal Deposit Insurance Corporation stated in comments to the Board regarding the proposed rule their concern that the small bank exemption would not work, stating, “. . . we are concerned that these institutions may not actually receive the benefit of the interchange fee limit exemption explicitly provided by Congress, resulting in a loss of income for community banks and ultimately higher banking costs for their customers”;

(5) the chairman of the National Credit Union Administration Board, in comments to the Board, cited concern with making sure there are “meaningful exemptions for smaller card issuers”; and

(6) all of the comments and concerns raised by the banking and credit union regulatory agencies cast serious questions about the practical implementation of section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and further study and consideration are needed.

#### SEC. 603. RULEMAKING AND EFFECTIVE DATES.

(a) EXTENSION FOR RULEMAKING TIMELINES AND REVISED EFFECTIVE DATE.—Section 920 of the Electronic Fund Transfer Act (15 U.S.C. 1693o-2) is amended—

(1) in subsection (a)(3)(A), by striking “9 months after the date of enactment of the Consumer Financial Protection Act of 2010” and inserting “24 months after the date of enactment of the Debit Interchange Fee Study Act of 2011”;

(2) in subsection (a)(5)(B)(i), by striking “9 months after the date of enactment of the Consumer Financial Protection Act of 2010” and inserting “24 months after the date of enactment of the Debit Interchange Fee Study Act of 2011”;

(3) in subsection (a)(8)(C), by striking “9-month period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010” and inserting “24-month period beginning on the date of enactment of the Debit Interchange Fee Study Act of 2011”;

(4) in subsection (a)(9), by striking “12-month period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010” and inserting “30-month period beginning on the date of enactment of the Debit Interchange Fee Study Act of 2011”;

(5) in subsection (b)(1)(A), by striking “1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010” and inserting “24-month period beginning on the date of enactment of the Debit Interchange Fee Study Act of 2011”; and

(6) in subsection (b)(1)(B), by striking “1-year period beginning on the date of the enactment of the Consumer Financial Protection Act of 2010” and inserting “24-month period beginning on the date of enactment of the Debit Interchange Fee Study Act of 2011”.

(b) EARLIER RULEMAKING VOIDED; NEW RULEMAKING REQUIRED.—Any regulation proposed or prescribed by the Board pursuant to section 920 of the Electronic Fund Transfer Act (as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act) prior to the date that is 6 months after the date of completion of the study required under section 604 shall be withdrawn by the Board and shall have no legal effect.

#### SEC. 604. STUDY.

(a) STUDY REQUIRED.—Not later than 12 months after the date of enactment of this

Act, the study agencies shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the impact of regulating debit interchange transaction fees and related issues under section 920 of the Electronic Fund Transfer Act.

(b) SUBJECTS FOR REVIEW.—In conducting the study required by this section, the study agencies shall examine the state of the debit interchange payment system, including the impact of section 920 of the Electronic Fund Transfer Act on consumers, entities that accept debit cards as payment, all financial institutions that issue debit cards, including small issuers, and debit card networks, and shall specifically examine—

(1) the costs and benefits of electronic debit card transactions and alternative forms of payment, including cash, check, and automated clearing house (ACH) for consumers, merchants, issuers, and debit card networks, including—

(A) individual consumer protections, ease of acceptance, payment guarantee, and security provided through such forms of payments for consumers;

(B) costs and benefits associated with acceptance, handling, and processing of different forms of payments, including labor, security, verification, and collection where applicable;

(C) the extent to which payment form impacts incremental sales and ticket sizes for merchants;

(D) all direct and indirect costs associated with fraud prevention, detection, and mitigation, including data breach and identity theft, and the overall costs of fraud incurred by debit card issuers and merchants, and how those costs are distributed among those parties; and

(E) financial liability and payment guarantee for debit card transactions and associated risks and costs incurred by debit card issuers and merchants, and how those costs are distributed among those parties;

(2) the structure of the current debit interchange system, including—

(A) the extent to which the current structure offers merchants and issuers, particularly smaller merchants and issuers sufficient competitive opportunities to participate and negotiate in the debit interchange system;

(B) an examination of the benefits of allowing interchange fees to be determined in bilateral negotiations between merchants and issuers, including small issuers directly;

(C) mechanisms for allowing more price discovery and transparency on the part of the consumer; and

(D) the ability of new competitors to enter the payment systems market and an examination into whether structural barriers to entry exist; and

(3) the impact of the proposed rule reducing debit card interchange fees issued by the Board entitled, “Debit Card Interchange Fees and Routing” (75 Fed. Reg. 81,722 (Dec. 28, 2010)), if such proposed rule were adopted without change, including—

(A) the impact on consumers, including whether consumers would benefit from reduced interchanges fees through reduced retail prices;

(B) the impact on lower and moderate income consumers and on small businesses with respect to the cost and accessibility of payment accounts and services, the availability of credit, and what alternative forms of financing are available and the cost of such financing;

(C) the impact on consumer protection, including anti-fraud, customer identification efforts, and privacy protection;

(D) the impact of reduced debit card interchange fees on merchants, including a comparison of the impact on small merchants versus large merchants;

(E) the potential consequences to merchants if reduced debit interchange fees result in elimination of the payment guarantee or other reductions in debit card services to merchants or shift consumers to other forms of payments;

(F) the impact of significantly reduced debit card interchange fees on debit card issuers and the services and rates they provide, if fees do not adequately recoup costs and investments made by issuers and the potential impact on the safety and soundness of issuers;

(G) whether it is possible to exempt or treat differently a certain class of issuers within the debit interchange system, such as small issuers and the impact of market forces on such treatment;

(H) the extent to which a transition to a fee cap from an interchange fee that is proportional to the overall cost of a transaction could provide a reasonable rate of return for issuers and adequately cover fraud and related costs;

(I) the impact on other entities that utilize debit card transactions, including the debit card programs of Federal and State entities.

(J) the impact of shifting debit transaction routing from card issuers to merchants, including resulting changes to interchange fees and costs for card issuers; and

(K) the impact of mandating a specific number of enabled networks on merchants and debit card issuers, including the specific and unique impact on small issuers.

#### SEC. 605. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

(2) STUDY AGENCIES.—The term “study agencies” means the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

(3) SMALL ISSUERS.—The term “small issuers” means debit card issuers that are depository institutions, including community banks and credit unions, with assets of less than \$10,000,000,000.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 29, 2011, at 9:30 a.m.

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

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 29, 2011, at 10 a.m., to conduct a hearing entitled, “Public Proposals for the Future of the Housing Finance System”.

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

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Environment and Public