

117TH CONGRESS
2D SESSION

S. 4158

To amend the small business laws to create certain requirements with respect to the SBIR and STTR program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2022

Mr. PADILLA introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the small business laws to create certain requirements with respect to the SBIR and STTR program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Encouraging Small
5 Business Innovation Act”.

6 **SEC. 2. INCLUSION OF TESTING AND EVALUATION FOR ALL**
7 **FEDERAL AGENCIES.**

8 Section 9(gg) of the Small Business Act (15 U.S.C.
9 638(gg)) is amended—

(1) in the subsection heading, by striking “PILOT PROGRAM” and inserting “TESTING, EVALUATION, AND COMMERCIALIZATION”;

(2) in paragraph (1), in the matter preceding subparagraph (A), by inserting “establish a program to” after “may”;

(3) in paragraph (2)(A), by striking “pilot program” each place that term appears and inserting “covered program”;

(4) in paragraph (3), by striking “pilot program” and inserting “covered program”;

(5) in paragraph (4), by striking “pilot program” and inserting “covered program”;

(6) in paragraph (6), by striking “pilot program” and inserting “covered program”; and

(7) by striking paragraphs (7) and (8) and inserting the following:

“(7) DEFINITIONS.—In this subsection—

“(A) the term ‘covered Federal agency’ means a Federal agency participating in the SBIR program or the STTR program; and

“(B) the term ‘covered program’ means a program established under paragraph (1).”.

1 **SEC. 3. INCLUSION OF SMALL BUSINESS INVESTMENT COM-**
 2 **PANIES IN SBIR AND STTR.**

3 Section 9 of the Small Business Act (15 U.S.C. 638)
 4 is amended—

5 (1) by striking “or private equity firm invest-
 6 ment” each place that term appears and inserting
 7 “private equity firm, or SBIC investment”;

8 (2) by striking “or private equity firms” each
 9 place that term appears and inserting “private eq-
 10 uity firms, or SBICs”;

11 (3) in subsection (e)—

12 (A) in paragraph (13)(B), by striking
 13 “and” at the end;

14 (B) in paragraph (14), by striking the pe-
 15 riod at the end and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(15) the term ‘SBIC’ means a small business
 18 investment company as defined in section 103 of the
 19 Small Business Investment Act of 1958 (15 U.S.C.
 20 662).”; and

21 (4) in the heading for subsection (dd), by strik-
 22 ing “OR PRIVATE EQUITY FIRMS” and inserting
 23 “PRIVATE EQUITY FIRMS, OR SBICs”.

1 **SEC. 4. CALCULATION OF LEVERAGE OF SMALL BUSINESS**
 2 **INVESTMENT COMPANIES THAT INVEST IN**
 3 **SBIR OR STTR PARTICIPANTS.**

4 Section 303(b)(2) of the Small Business Investment
 5 Act of 1958 (15 U.S.C. 683(b)(2)) is amended by adding
 6 at the end the following:

7 “(E) INVESTMENTS IN SBIR AND STTR
 8 PARTICIPANTS.—

9 “(i) DEFINITIONS.—In this subpara-
 10 graph—

11 “(I) the term ‘cost’ has the
 12 meaning given the term in section 502
 13 of the Federal Credit Reform Act of
 14 1990 (2 U.S.C. 661a); and

15 “(II) the term ‘SBIR or STTR
 16 participant’ means a small business
 17 concern that receives contracts or
 18 grants pursuant to section 9 of the
 19 Small Business Act (15 U.S.C. 638).

20 “(ii) EXCLUSION.—Subject to clause
 21 (iii), in calculating the outstanding lever-
 22 age of a company for purposes of subpara-
 23 graph (A), the Administrator shall exclude
 24 the amount of any investment made in a
 25 SBIR or STTR participant, if such invest-
 26 ment is made in the first fiscal year after

1 the date of enactment of this subparagraph
2 or any fiscal year thereafter by a company
3 licensed during the applicable fiscal year.

4 “(iii) LIMITATIONS.—

5 “(I) AMOUNT OF EXCLUSION.—

6 The amount excluded under clause (i)
7 for a company shall not exceed 33
8 percent of the private capital of that
9 company.

10 “(II) MAXIMUM INVESTMENT.—

11 A company shall not make an invest-
12 ment in any 1 SBIR or STTR partici-
13 pant in an amount equal to more than
14 20 percent of the private capital of
15 that company.

16 “(III) OTHER TERMS.—The ex-

17 clusion of amounts under clause (i)
18 shall be subject to such terms as the
19 Administrator may impose to ensure
20 that there is no cost with respect to
21 purchasing or guaranteeing any de-
22 benture involved.”.

1 **SEC. 5. ANNUAL MEETING FOR FEDERAL AGENCIES WITH A**
2 **SBIR OR STTR PROGRAM.**

3 Section 9 of the Small Business Act (15 U.S.C. 638)
4 is amended by adding at the end the following:

5 “(vv) ANNUAL MEETING.—

6 “(1) IN GENERAL.—The head of each Federal
7 agency required to have a program under this sec-
8 tion (or a designee) and the Administrator (or a des-
9 ignee) shall meet annually to discuss methods—

10 “(A) to improve the collection of data
11 under this section;

12 “(B) to improve the reporting of data to
13 the Administrator under this section;

14 “(C) to make the application processes for
15 programs under this section more efficient; and

16 “(D) to increase participation in the pro-
17 grams under this section.

18 “(2) REPORTING.—Not later than 60 days after
19 the date on which an annual meeting required under
20 paragraph (1) is held, the Administrator shall sub-
21 mit to the Committee on Small Business and Entre-
22 preneurship of the Senate and the Committee on
23 Small Business and the Committee on Science,
24 Space, and Technology of the House of Representa-
25 tives a report on the findings of the meeting and

1 recommendations on how to implement changes to
 2 programs under this section.”.

3 **SEC. 6. INCREASING PARTICIPATION OF UNDERSERVED**
 4 **POPULATIONS IN THE SBIR AND STTR PRO-**
 5 **GRAMS.**

6 (a) IN GENERAL.—Section 9(mm)(2) of the Small
 7 Business Act (15 U.S.C. 638(mm)(2)) is amended to read
 8 as follows:

9 “(2) OUTREACH AND TECHNICAL ASSIST-
 10 ANCE.—A Federal agency participating in the pro-
 11 gram under this subsection shall use a portion of the
 12 funds authorized for uses under paragraph (1) to
 13 carry out the policy directive required under sub-
 14 section (j)(2)(F) and to increase the participation of
 15 States with respect to which a low level of SBIR
 16 awards have historically been awarded.”.

17 (b) CONFORMING AMENDMENT.—Section 9(mm)(6)
 18 of the Small Business Act (15 U.S.C. 638(mm)(6)) is
 19 amended by striking “paragraph (2)(A) and any use of
 20 the waiver authority under paragraph (2)(B)” and insert-
 21 ing “paragraph (2)”.

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