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SUPPORT STARTUP BUSINESSES ACT OF 2018

DECEMBER 21, 2018.—Ordered to be printed

Mr. RISCH, from the Committee on Small Business and Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 2419]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 2419) to amend the Small Business Act to improve the technical and business assistance services under the SBIR and STTR programs, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

I. INTRODUCTION

The Support Startup Businesses Act of 2018 (S. 2419) was introduced by Senator Christopher A. Coons, for himself, and Senator Cory Gardner on February 13, 2018.

This bill as introduced increased the discretionary technical assistance funding to Small Business Innovation Research Program and Small Business Technology Transfer (SBIR/STTR) awardees from \$5,000 a year per award to 5% of the award. It broadened the uses of the funds to include business assistance, such as services for intellectual property (IP) protections, market research, and development of regulatory and manufacturing plans. It expanded the number of vendors an SBIR agency or a participant could select to provide the technical or business-related assistance services, and allowed vendors to be private or public, or a state-funded agency that specializes in commercializing technology. Finally, it directed the Administrator of the Small Business Administration (SBA) to submit a report reviewing the efficacy of the technical and business assistance.

For the markup of the bill, Senator Coons filed a substitute amendment that caps the dollar amount used for commercialization assistance at \$50,000 per award for Phase II awards. The amendment requires that the discretionary technical assistance funds be taken out of a small business's Phase II SBIR or STTR award amount instead of being made in addition to their SBIR and STTR award amount. Finally, the amendment strengthens the oversight requirements by requiring a survey of vendors and awardees receiving this assistance and a report to Congress to determine the efficacy of these technical and business assistance changes.

The bill, as amended, was approved unanimously by a roll call vote as part of an eight-bill manager's package.

II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

The SBIR program was authorized by the Small Business Innovation Development Act of 1982. A sister program, STTR, was authorized by the Small Business Research and Development Enhancement Act of 1992. The SBIR program requires federal agencies with extramural research and development budgets of \$100 million or more to allocate at least 3.2 percent of their extramural funds for research awards to small businesses. Awards are competitive and merit-based, given to small businesses that have proposals or technology that could benefit the awarding agency: Phase I awards are given to determine the feasibility of an idea; Phase II awards are for technology that is particularly promising but needs further development; and Phase III is for the small business to pursue commercialization objectives resulting from the Phase I/II R&D activities. The SBIR program does not fund Phase III. This Phase may involve follow-on non-SBIR federal R&D funding or production contracts for products, processes or services for the federal government. Currently eleven federal agencies participate in the SBIR program. The STTR program has a similar three phase award structure but focuses on public-private partnerships in which small businesses partner with research institutions with the intention of eventually commercializing their ideas. The STTR program requires federal agencies with an extramural research and development budget of \$1 billion or more to allocate at least 0.45 percent of their extramural funds for STTR awards. Currently five federal agencies participate in the program.

The provisions of this bill were developed to increase commercialization of SBIR/STTR technologies. While the National Academy of Sciences has found that 40 to 70 percent of SBIR and STTR projects reach the market, in many cases, small businesses carrying out research and development work enter a so-called "valley of death," in which small firms struggle to bridge the gap between research and the commercialization of an idea or product.

The Support Startup Businesses Act of 2018 addresses this issue by allowing for a larger amount of discretionary technical assistance funds to be used for commercialization, allowing for more agency-approved commercialization vendors, and expanding the definition of allowable commercialization expenses. In the interest of robust congressional oversight, the bill also directs the SBA to issue a report on the efficacy of the commercialization and technical assistance changes made in this bill.

In the 114th Congress, Senator Christopher A. Coons introduced the Support Startup Businesses Act of 2016 (S. 2751), which contained similar language to this bill. During Committee consideration of the SBIR and STTR Reauthorization and Improvement Act of 2016 (S. 2812), which was sponsored by the Committee's Ranking Member, Senator Jeanne Shaheen, and the Committee's Chairman, Senator David Vitter, a number of provisions from S. 2751 were included in S. 2812. The bill was reported favorably by the Committee by an 18–1 vote, but did not receive consideration by the full Senate.

In the 115th Congress, similar language was included in the Support Startup Businesses Act of 2017 (H.R. 2789). While not considered independently, the text of H.R. 2789 was included as part of the Small Business Innovation Research and Small Business Technology Transfer Improvements Act of 2017 (H.R. 2763), which passed the House Small Business Committee on September 14, 2017 and passed the House of Representatives on October 11, 2017.

III. HEARINGS & ROUNDTABLES

In the 113th Congress, the Committee held a roundtable on December 18, 2013 entitled, "SBIR/STTR: Measuring the Effectiveness of the Reauthorization Act." Most participants in the roundtable expressed strong support for the commercialization aspect of the program. The participants also discussed which agencies could improve commercialization.

In the 114th Congress, the Committee held a hearing on January 28, 2016 entitled, "Reauthorization of the SBIR/STTR Program: The Importance of Small Business Innovation to National and Economic Security." At this hearing, Chairman Vitter discussed the importance of commercialization of research and technology for small firms participating in the SBIR/STTR programs. Senator Coons also expressed his belief that commercialization was an integral part of the program. Mr. John Williams, Director of Innovation and Technology, Office of Investment and Innovation, Small Business Administration, testified that commercialization was a fundamental goal of the program and that outside expertise was a helpful option for firms that were attempting to commercialize their technology.

IV. DESCRIPTION OF BILL

The bill allows for greater flexibility in the use of SBIR/STTR Phase II award funds by agencies and awardees for commercialization activities. Currently, the discretionary technical assistance funding for SBIR and STTR awardees is limited to \$5,000 per year for Phase I awards and \$5,000 per year for Phase II awards. The commercialization assistance used by awardees is not taken out of their award dollars. In general, this means \$5,000 per Phase I award, and \$10,000 per Phase II award.

This bill as introduced allows for up to five percent, per year, per Phase I and Phase II award to be used for commercialization activities. In general, this change would have yielded \$7,500 per Phase I award of \$150,000 and \$50,000 per Phase II award of \$1,500,000. However, based on the most complete data on SBIR and STTR awards (FY2015), in some cases the new formula could have been insufficient or excessive.

To address these cases and concerns that program changes not reduce the number of awards going to small businesses, Senator Coons offered a substitute amendment that capped the dollar amount used for commercialization assistance at \$50,000 per award for Phase II awards. The amendment also eliminated the changes to Phase I and required that the discretionary technical assistance funds be taken out of a small business's Phase II SBIR or STTR funds instead of being made in addition to their SBIR and STTR award amount.

In addition to increasing the amount of discretionary technical assistance for SBIR and STTR agencies and awardees, the bill expands the uses of the funds to allow for business assistance, such as obtaining intellectual property protection for a new invention, market validation and research, manufacturing plans, and business model development. This bill also increases the number of agency-approved commercialization vendors from one to several. It requires the SBA to report on the use of these funds and requires small businesses to provide participating agencies with a description of the assistance provided by the agency-approved vendors. Finally, the bill requires the SBA to conduct a survey of vendors and awardees receiving this assistance and report to Congress on the efficacy of these changes to the SBIR/STTR programs.

V. COMMITTEE VOTE

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following vote was recorded on March 14, 2018.

A motion to adopt the Support Startup Businesses Act of 2018, a bill to amend the Small Business Act to improve the technical and business assistance services under the SBIR and STTR programs, was approved unanimously by a roll call vote as part of a manager's package. Senators Risch, Rubio, Paul, Scott, Ernst, Inhofe, Young, Enzi, Rounds, Kennedy, Cardin, Cantwell, Shaheen, Heitkamp, Markey, Booker, Coons, Hirono, and Duckworth voted for the bill.

VI. COST ESTIMATE

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office:

JULY 16, 2018.

Hon. JAMES E. RISCH,
Chairman, Committee on Small Business and Entrepreneurship,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2419, the Support Startup Businesses Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 2419—The Support Startup Businesses Act of 2018

S. 2419 would make several changes to the operations of the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

Under current law, those programs require certain federal agencies to set aside a portion of their budgets for extramural research and development for contracts with small businesses or for cooperative research between small businesses and federal laboratories or nonprofit research institutions. The 11 agencies that participate in at least one program may provide technical assistance awards to small businesses that are in addition to any awards under the SBIR or STTR programs. S. 2419 would expand the assistance that small businesses can receive, raise the maximum award and technical assistance amounts, and direct agencies to include those amounts as part of an SBIR or STTR award. Because awarding additional amounts for technical assistance would decrease the amounts available for SBIR or STTR awards by corresponding amounts and would not affect the underlying costs of administering those programs, CBO estimates that implementing those provisions would have no budgetary effect.

S. 2419 also would direct the Small Business Administration (SBA) to conduct a survey of vendors and small businesses that provide and receive technical assistance and to submit a report to the Congress on the efficacy of that assistance. Using information from the SBA, CBO estimates that implementing the bill would cost the agency less than \$500,000 over the 2019–2023 period for the agency to update the program’s regulations, conduct the required survey, and monitor the expanded awards. Such spending would be subject to the availability of appropriated funds.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2419 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2419 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title for the Act, the “Support Startup Businesses Act of 2018”.

Sec. 2. Improvement to technical and business assistance

This section allows for up to \$50,000 per SBIR/STTR Phase II award to be used for commercialization activities and business as-

sistance while increasing the number and type of agency-approved vendors that agencies and awardees may use. The \$50,000 will be counted as part of the recipient's Phase II award.

This section also allows the Administrator to impose a limit on the amount of technical and business services one small business may receive with respect to multiple Phase II SBIR/STTR awards in one fiscal year. Finally, this section requires a report on the efficacy of SBIR/STTR business and technical assistance be submitted to Congress by the SBA before the end of fiscal year 2019.

