

116TH CONGRESS
1ST SESSION

H. R. 206

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2019

Received; read twice and referred to the Committee on Small Business and
Entrepreneurship

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Encouraging Small
3 Business Innovation Act”.

4 **SEC. 2. INCLUSION OF TESTING AND EVALUATION IN THE**
5 **DEFINITION OF RESEARCH AND DEVELOP-**
6 **MENT.**

7 Section 9(e)(5) of the Small Business Act (15 U.S.C.
8 638(e)(5)) is amended—

9 (1) by redesignating subparagraphs (A), (B),
10 and (C) as clauses (i), (ii), and (iii), respectively
11 (and conforming the margins accordingly);

12 (2) by striking “means any activity which is”
13 and inserting the following: “means—

14 “(A) any activity which is—”; and

15 (3) in clause (iii), as so redesignated, by adding
16 “and” after the semicolon at the end; and

17 (4) by adding at the end the following new sub-
18 paragraph:

19 “(B) any testing or evaluation in connec-
20 tion with such an activity;”.

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

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

1 (1) by striking “or private equity firm invest-
2 ment” each place such term appears and inserting
3 “private equity firm, or SBIC investment”;

4 (2) by striking “or private equity firms” and in-
5 serting “private equity firms, or SBICs”;

6 (3) in subsection (e)—

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

9 (B) in paragraph (13)(B), by striking the
10 period at the end and inserting “; and”; and

11 (C) by adding at the end the following new
12 paragraph:

13 “(14) the term ‘SBIC’ means a small business
14 investment company as defined in section 103 of the
15 Small Business Investment Act of 1958.”; and

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

19 **SEC. 4. CALCULATION OF LEVERAGE OF SMALL BUSINESS**
20 **INVESTMENT COMPANIES THAT INVEST IN**
21 **SBIR OR STTR PARTICIPANTS.**

22 Section 303(b)(2) of the Small Business Investment
23 Act of 1958 (15 U.S.C. 683(b)(2)) is amended by adding
24 at the end the following new subparagraph:

1 “(E) INVESTMENTS IN SBIR AND STTR
2 PARTICIPANTS.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), in calculating the outstanding leverage
5 of a company for purposes of subpara-
6 graph (A), the Administrator shall exclude
7 the amount of any investment made in a
8 SBIR or STTR participant, if such invest-
9 ment is made in the first fiscal year after
10 the date of enactment of this subparagraph
11 or any fiscal year thereafter by a company
12 licensed during the applicable fiscal year.

13 “(ii) LIMITATIONS.—

14 “(I) AMOUNT OF EXCLUSION.—
15 The amount excluded under clause (i)
16 for a company shall not exceed 33
17 percent of the private capital of that
18 company.

19 “(II) MAXIMUM INVESTMENT.—
20 A company shall not make an invest-
21 ment in any one SBIR or STTR par-
22 ticipant in an amount equal to more
23 than 20 percent of the private capital
24 of that company.

1 “(III) OTHER TERMS.—The ex-
2 clusion of amounts under clause (i)
3 shall be subject to such terms as the
4 Administrator may impose to ensure
5 that there is no cost (as that term is
6 defined in section 502 of the Federal
7 Credit Reform Act of 1990 (2 U.S.C.
8 661a)) with respect to purchasing or
9 guaranteeing any debenture involved.

10 “(iii) DEFINITIONS.—In this subpara-
11 graph, the term ‘SBIR or STTR partici-
12 pant’ means a small business concern that
13 receives contracts or grants pursuant to
14 section 9 of the Small Business Act.”.

15 **SEC. 5. ENCOURAGING PARTICIPATION IN THE MENTOR-**
16 **PROTEGE PROGRAM.**

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

19 “(tt) ENCOURAGING PARTICIPATION IN THE MEN-
20 TOR-PROTEGE PROGRAM.—The Administrator shall pro-
21 vide an increase to the past performance rating of any
22 small business concern that has participated in the SBIR
23 or STTR program that serves as a mentor under section
24 45 to a small business concern that seeks to participate
25 in the SBIR or STTR program.”.

1 **SEC. 6. ANNUAL MEETING FOR FEDERAL AGENCIES WITH A**
2 **SBIR OR STTR PROGRAM.**

3 (a) IN GENERAL.—Section 9 of the Small Business
4 Act (15 U.S.C. 638), as amended by section 3, is further
5 amended by adding at the end the following new sub-
6 section:

7 “(uu) ANNUAL MEETING.—

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

12 “(A) to improve the collection of data
13 under this section;

14 “(B) to improve the reporting of data to
15 the Administrator under this section;

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

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

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

1 tives, a report on the findings of such meeting and
2 recommendations on how to implement changes to
3 programs under this section.”.

4 (b) **FUNDING FOR ANNUAL MEETING.**—Section
5 9(mm)(1) of the Small Business Act (15 U.S.C.
6 638(mm)(1)) is amended—

7 (1) in subparagraph (I), by striking the “and”
8 at the end;

9 (2) in subparagraph (J), by striking the period
10 at the end and inserting “; and”; and

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(K) the annual meeting required under
14 subsection (uu).”.

15 **SEC. 7. INCREASING PARTICIPATION OF UNDERSERVED**
16 **POPULATIONS IN THE SBIR AND STTR PRO-**
17 **GRAMS.**

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

21 “(2) **OUTREACH AND TECHNICAL ASSIST-**
22 **ANCE.**—A Federal agency participating in the pro-
23 gram under this subsection shall use a portion of the
24 funds authorized for uses under paragraph (1) to
25 carry out the policy directive required under sub-

1 section (j)(2)(F) and to increase the participation of
2 States with respect to which a low level of SBIR
3 awards have historically been awarded.”.

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

Passed the House of Representatives January 14,
2019.

Attest:

KAREN L. HAAS,

Clerk.