

Calendar No. 571

117TH CONGRESS
2D SESSION**S. 2773**

To amend the Leahy-Smith America Invents Act to address satellite offices of the United States Patent and Trademark Office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2021

Mr. LEAHY (for himself, Mr. TILLIS, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

DECEMBER 1, 2022

Reported by Mr. DURBIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Leahy-Smith America Invents Act to address satellite offices of the United States Patent and Trademark Office, 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 “Unleashing American
5 Innovators Act of 2021”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **DIRECTOR.**—The term “Director” means
4 the Under Secretary of Commerce for Intellectual
5 Property and Director of the Office.

6 (2) **OFFICE.**—The term “Office” means the
7 United States Patent and Trademark Office.

8 (3) **PATENT PRO BONO PROGRAMS.**—The term
9 “patent pro bono programs” means the programs
10 established pursuant to section 32 of the Leahy-
11 Smith America Invents Act (35 U.S.C. 2 note).

12 (4) **SOUTHEAST REGION OF THE UNITED**
13 **STATES.**—The term “southeast region of the United
14 States” means the area of the United States that is
15 comprised of the States of Virginia, North Carolina,
16 South Carolina, Georgia, Florida, Tennessee, Ala-
17 bama, Mississippi, Louisiana, and Arkansas.

18 **SEC. 3. SATELLITE OFFICES.**

19 (a) **AMENDMENTS TO PURPOSE AND REQUIRED CON-**
20 **SIDERATIONS.**—Section 23 of the Leahy-Smith America
21 Invents Act (35 U.S.C. 1 note) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)—

24 (i) by striking “increase outreach ac-
25 tivities to”; and

(ii) by inserting after “Office” the following: “, including by increasing outreach activities, including to individual innovators, small businesses, veterans, and any other demographic group or category of innovators that the Director may determine, after notice in the Federal Register, to be underrepresented in patent filings”; and

(B) by striking paragraph (2) and inserting the following:

“(2) enhance patent examiner and administrative patent judge retention, including patent examiners and administrative patent judges from economically, geographically, and demographically diverse backgrounds;” and

(2) in subsection (c)(1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(F) with respect to each office established after January 1, 2021, shall consider the proximity of the office to anchor institutions (such

as hospitals primarily serving veterans and institutions of higher education) and populations that the Director may determine to be underrepresented in patent filings, including rural populations.”.

(b) SOUTHEAST REGIONAL OFFICE.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall establish a satellite office of the Office in the southeast region of the United States.

(2) CONSIDERATIONS.—When establishing the office required under paragraph (1), the Director shall consider the following:

(A) The number of patent-intensive industries located near the selection site.

(B) How many research-intensive institutions, including institutions of higher education, are located near the selection site.

(C) The State and local government legal and business frameworks that support intellectual property-intensive industries located near the selection site.

(c) STUDY ON ADDITIONAL SATELLITE OFFICES.—

Not later than 2 years after the date of enactment of this Act, the Director shall complete a study to determine

1 whether additional satellite offices of the Office are nec-
 2 essary to—

3 ~~(1)~~ achieve the purposes described in section
 4 ~~23(b)~~ of the Leahy-Smith America Invents Act (~~35~~
 5 U.S.C. ~~1~~ note), as amended by this section; and

6 ~~(2)~~ increase participation in the patent system
 7 by women, people of color, veterans, individual in-
 8 ventors, or members of any other demographic, geo-
 9 graphic, or economic group that the Director may
 10 determine to be underrepresented in patent filings.

11 **SEC. 4. COMMUNITY OUTREACH OFFICES.**

12 ~~(a)~~ ESTABLISHMENT.—

13 ~~(1)~~ IN GENERAL.—Subject to paragraphs ~~(2)~~
 14 and ~~(3)~~, not later than 5 years after the date of en-
 15 actment of this Act, the Director shall establish not
 16 fewer than 2 community outreach offices in each re-
 17 gion of the United States that, as of that date of en-
 18 actment, is served by—

19 ~~(A)~~ a satellite office of the Office; or

20 ~~(B)~~ the principal office of the Office.

21 ~~(2)~~ RESTRICTION.—No community outreach of-
 22 fice established under paragraph ~~(1)~~ may be located
 23 in the same State as—

24 ~~(A)~~ the principal office of the Office; or

25 ~~(B)~~ any satellite office of the Office.

1 ~~(3) REQUIREMENT FOR NORTHERN NEW ENG-~~
 2 ~~LAND REGION.—~~

3 ~~(A) IN GENERAL.—~~The Director shall es-
 4 ~~tablish not less than 1 community outreach of-~~
 5 ~~fice under this subsection in the northern New~~
 6 ~~England region, which shall serve the States of~~
 7 ~~Vermont, New Hampshire, and Maine.~~

8 ~~(B) CONSIDERATIONS.—~~In determining
 9 ~~the location for the office required to be estab-~~
 10 ~~lished under subparagraph (A), the Director~~
 11 ~~shall give preference to a location in which—~~

12 ~~(i) as of the date of enactment of this~~
 13 ~~Act—~~

14 ~~(I) there is located not less than~~
 15 ~~1 public institution of higher edu-~~
 16 ~~cation and not less than 1 private in-~~
 17 ~~stitution of higher education; and~~

18 ~~(II) there are located not more~~
 19 ~~than 15 registered patent attorneys,~~
 20 ~~according to data from the Office of~~
 21 ~~Enrollment and Discipline of the Of-~~
 22 ~~fice; and~~

23 ~~(ii) according to data from the 2012~~
 24 ~~Survey of Business Owners conducted by~~
 25 ~~the Bureau of the Census, less than 45~~

1 percent of the firms are owned by women;
 2 minorities, or veterans.

3 (b) PURPOSES.—The purposes of the community out-
 4 reach offices established under subsection (a) are to—

5 (1) further achieve the purposes described in
 6 section 23(b)(1) of the Leahy-Smith America In-
 7 vents Act (35 U.S.C. 1 note), as amended by this
 8 Act;

9 (2) partner with local community organizations;
 10 institutions of higher education; research institu-
 11 tions; and businesses to create community-based
 12 programs that—

13 (A) provide education regarding the patent
 14 system; and

15 (B) promote the career benefits of innova-
 16 tion and entrepreneurship; and

17 (3) educate prospective inventors, including vet-
 18 erans, individual inventors, and individuals from de-
 19 mographic, geographic, or economic groups that the
 20 Director may determine to be underrepresented in
 21 patent filings; about all public and private resources
 22 available to potential patent applicants, including the
 23 patent pro bono programs.

24 (c) SUBORDINATE TO SATELLITE OFFICES.—The
 25 community outreach offices established under this section

1 shall be subordinate, and report directly, to the principal
 2 office of the Office or the satellite office of the Office that
 3 corresponds to the region in which that community out-
 4 reach office is located, as applicable.

5 **SEC. 5. UPDATES TO THE PATENT PRO BONO PROGRAM.**

6 ~~(a) STUDY AND UPDATES.—~~

7 ~~(1) IN GENERAL.—~~Not later than 1 year after
 8 the date of enactment of this Act, the Director
 9 shall—

10 ~~(A) complete a study of the patent pro~~
 11 ~~bono programs; and~~

12 ~~(B) submit the results of the study re-~~
 13 ~~quired under subparagraph (A) to the Com-~~
 14 ~~mittee on the Judiciary of the Senate and the~~
 15 ~~Committee on the Judiciary of the House of~~
 16 ~~Representatives.~~

17 ~~(2) SCOPE OF THE STUDY.—~~The study required
 18 under paragraph ~~(1)(A)~~ shall—

19 ~~(A) assess—~~

20 ~~(i) whether the patent pro bono pro-~~
 21 ~~grams, as in effect on the date on which~~
 22 ~~the study is commenced, are sufficiently~~
 23 ~~serving veterans, individual inventors, and~~
 24 ~~members of demographic, geographic, and~~
 25 ~~economic groups that the Director may de-~~

1 termine to be underrepresented in patent
2 filings;

3 (ii) whether the patent pro bono pro-
4 grams are sufficiently funded to serve pro-
5 spective participants;

6 (iii) whether the participation require-
7 ments of the patent pro bono programs, in-
8 cluding the requirement to demonstrate
9 knowledge of the patent system, serve as a
10 deterrent for prospective participants;

11 (iv) the degree to which prospective
12 inventors are aware of the patent pro bono
13 programs;

14 (v) the degree to which the length of
15 prosecution time for pro bono applicants
16 serves as a deterrent for attorneys to par-
17 ticipate in the patent pro bono programs;
18 and

19 (vi) any other issue the Director de-
20 termines appropriate; and

21 (B) make recommendations for such ad-
22 ministrative and legislative action as may be ap-
23 propriate.

24 (b) USE OF RESULTS.—Upon completion of the study
25 required under subsection (a), the Director shall work

1 with the Patent Pro Bono Advisory Council, existing re-
 2 gional programs, and intellectual property law associations
 3 across the United States to update the patent pro bono
 4 programs in response to the findings of the study.

5 (e) EXPANSION OF INCOME ELIGIBILITY.—The Di-
 6 rector shall work with and support existing (as of the date
 7 of enactment of this Act) regional programs and intellec-
 8 tual property law associations across the United States to
 9 expand eligibility for the patent pro bono programs to an
 10 individual living in a household, the gross household in-
 11 come of which is not more than 400 percent of the Federal
 12 poverty line.

13 **SEC. 6. PRE-PROSECUTION PATENTABILITY ASSESSMENT**
 14 **PILOT PROGRAM.**

15 (a) PILOT PROGRAM.—Not later than 1 year after
 16 the date of enactment of this Act, the Director shall estab-
 17 lish a pilot program to assist first-time prospective patent
 18 applicants in assessing the viability of a potential patent
 19 application submitted by such a prospective applicant.

20 (b) CONSIDERATIONS.—In developing the pilot pro-
 21 gram required under subsection (a), the Director shall es-
 22 tablish—

23 (1) a notification process to notify a prospective
 24 patent applicant seeking an assessment described in
 25 that subsection that any assessment so provided may

1 not be considered an official ruling of patentability
 2 from the Office;

3 ~~(2)~~ conditions to determine eligibility for the
 4 pilot program, taking into consideration available re-
 5 sources;

6 ~~(3)~~ reasonable limitations on the amount of
 7 time to be spent providing assistance to each indi-
 8 vidual first-time prospective patent applicant; and

9 ~~(4)~~ procedures for referring prospective patent
 10 applicants to legal counsel, including through the
 11 patent pro bono programs.

12 **SEC. 7. FEE REDUCTION FOR SMALL AND MICRO ENTITIES.**

13 (a) TITLE 35.—Section 41(h) of title 35, United
 14 States Code, is amended—

15 ~~(1)~~ in paragraph (1), by striking “50 percent”
 16 and inserting “75 percent or more, at the discretion
 17 of the Director,”; and

18 ~~(2)~~ in paragraph (3), by striking “75 percent”
 19 and inserting “90 percent or more, at the discretion
 20 of the Director,”.

21 (b) LEAHY-SMITH AMERICA INVENTS ACT.—Section
 22 10(b) of the Leahy Smith America Invents Act (35 U.S.C.
 23 41 note) is amended by striking “75 percent” and insert-
 24 ing “90 percent or more, at the discretion of the Direc-
 25 tor,”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Unleashing American*
 3 *Innovators Act of 2022”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *DIRECTOR.*—*The term “Director” means the*
 7 *Under Secretary of Commerce for Intellectual Prop-*
 8 *erty and Director of the Office.*

9 (2) *OFFICE.*—*The term “Office” means the*
 10 *United States Patent and Trademark Office.*

11 (3) *PATENT PRO BONO PROGRAMS.*—*The term*
 12 *“patent pro bono programs” means the programs es-*
 13 *tablished pursuant to section 32 of the Leahy-Smith*
 14 *America Invents Act (35 U.S.C. 2 note).*

15 (4) *SOUTHEAST REGION OF THE UNITED*
 16 *STATES.*—*The term “southeast region of the United*
 17 *States” means the area of the United States that is*
 18 *comprised of the States of Virginia, North Carolina,*
 19 *South Carolina, Georgia, Florida, Tennessee, Ala-*
 20 *bama, Mississippi, Louisiana, and Arkansas.*

21 **SEC. 3. SATELLITE OFFICES.**

22 (a) *AMENDMENTS TO PURPOSE AND REQUIRED CON-*
 23 *SIDERATIONS.*—*Section 23 of the Leahy-Smith America In-*
 24 *vents Act (35 U.S.C. 1 note) is amended—*

25 (1) *in subsection (b)—*

26 (A) *in paragraph (1)—*

1 (i) by striking “increase outreach ac-
2 tivities to”; and

3 (ii) by inserting after “Office” the fol-
4 lowing: “, including by increasing outreach
5 activities, including to individual inventors,
6 small businesses, veterans, low-income popu-
7 lations, students, rural populations, and
8 any geographic group of innovators that the
9 Director may determine to be underrep-
10 resented in patent filings”; and

11 (B) by striking paragraph (2) and inserting
12 the following:

13 “(2) enhance patent examiner and administra-
14 tive patent judge retention, including patent exam-
15 iners and administrative patent judges from economi-
16 cally, geographically, and demographically diverse
17 backgrounds;”; and

18 (2) in subsection (c)(1)—

19 (A) in subparagraph (D), by striking “and”
20 at the end;

21 (B) in subparagraph (E), by striking the
22 period at the end and inserting “; and”; and

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

24 “(F) with respect to each office established
25 after January 1, 2023, shall consider the prox-

1 *imity of the office to anchor institutions (such as*
 2 *hospitals primarily serving veterans and institu-*
 3 *tions of higher education), individual inventors,*
 4 *small businesses, veterans, low-income popu-*
 5 *lations, students, rural populations, and any ge-*
 6 *ographic group of innovators that the Director*
 7 *may determine to be underrepresented in patent*
 8 *filings.”.*

9 *(b) SOUTHEAST REGIONAL OFFICE.—*

10 *(1) IN GENERAL.—Not later than 3 years after*
 11 *the date of enactment of this Act, the Director shall*
 12 *establish a satellite office of the Office in the southeast*
 13 *region of the United States.*

14 *(2) CONSIDERATIONS.—When selecting a site for*
 15 *the office required under paragraph (1), the Director*
 16 *shall consider the following:*

17 *(A) The number of patent-intensive indus-*
 18 *tries located near the site.*

19 *(B) How many research-intensive institu-*
 20 *tions, including institutions of higher education,*
 21 *are located near the site.*

22 *(C) The State and local government legal*
 23 *and business frameworks that support intellec-*
 24 *tual property-intensive industries located near*
 25 *the site.*

1 (c) *STUDY ON ADDITIONAL SATELLITE OFFICES.*—Not
 2 *later than 2 years after the date of enactment of this Act,*
 3 *the Director shall complete a study to determine whether*
 4 *additional satellite offices of the Office are necessary to—*

5 (1) *achieve the purposes described in section*
 6 *23(b) of the Leahy-Smith America Invents Act (35*
 7 *U.S.C. 1 note), as amended by this section; and*

8 (2) *increase participation in the patent system*
 9 *by individual inventors, small businesses, veterans,*
 10 *low-income populations, students, rural populations,*
 11 *and any geographic group of innovators that the Di-*
 12 *rector may determine to be underrepresented in pat-*
 13 *ent filings.*

14 **SEC. 4. COMMUNITY OUTREACH OFFICES.**

15 (a) *ESTABLISHMENT.*—

16 (1) *IN GENERAL.*—Subject to paragraphs (2) and
 17 (3), *not later than 5 years after the date of enactment*
 18 *of this Act, the Director shall establish not fewer than*
 19 *4 community outreach offices throughout the United*
 20 *States.*

21 (2) *RESTRICTION.*—No community outreach of-
 22 *fice established under paragraph (1) may be located*
 23 *in the same State as—*

24 (A) *the principal office of the Office; or*

25 (B) *any satellite office of the Office.*

1 (3) *REQUIREMENT FOR NORTHERN NEW ENG-*
 2 *LAND REGION.*—

3 (A) *IN GENERAL.*—*The Director shall estab-*
 4 *lish not less than 1 community outreach office*
 5 *under this subsection in the northern New Eng-*
 6 *land region, which shall serve the States of*
 7 *Vermont, New Hampshire, and Maine.*

8 (B) *CONSIDERATIONS.*—*In determining the*
 9 *location for the office required to be established*
 10 *under subparagraph (A), the Director shall give*
 11 *preference to a location in which—*

12 (i) *as of the date of enactment of this*
 13 *Act—*

14 (I) *there is located not less than 1*
 15 *public institution of higher education*
 16 *and not less than 1 private institution*
 17 *of higher education; and*

18 (II) *there are located not more*
 19 *than 15 registered patent attorneys, ac-*
 20 *cording to data from the Office of En-*
 21 *rollment and Discipline of the Office;*
 22 *and*

23 (ii) *according to data from the 2012*
 24 *Survey of Business Owners conducted by the*
 25 *Bureau of the Census, less than 45 percent*

1 of the firms (as that term is defined for the
2 purposes of that Survey) are owned by
3 women, minorities, or veterans.

4 (b) *PURPOSES.*—The purposes of the community out-
5 reach offices established under subsection (a) are to—

6 (1) further achieve the purposes described in sec-
7 tion 23(b)(1) of the Leahy-Smith America Invents Act
8 (35 U.S.C. 1 note), as amended by this Act;

9 (2) partner with local community organizations,
10 institutions of higher education, research institutions,
11 and businesses to create community-based programs
12 that—

13 (A) provide education regarding the patent
14 system; and

15 (B) promote the career benefits of innova-
16 tion and entrepreneurship; and

17 (3) educate prospective inventors, including indi-
18 vidual inventors, small businesses, veterans, low-in-
19 come populations, students, rural populations, and
20 any geographic group of innovators that the Director
21 may determine to be underrepresented in patent fil-
22 ings, about all public and private resources available
23 to potential patent applicants, including the patent
24 pro bono programs.

1 **SEC. 5. UPDATES TO THE PATENT PRO BONO PROGRAMS.**

2 *(a) STUDY AND UPDATES.—*

3 *(1) IN GENERAL.—Not later than 1 year after*
 4 *the date of enactment of this Act, the Director shall—*

5 *(A) complete a study of the patent pro bono*
 6 *programs; and*

7 *(B) submit the results of the study required*
 8 *under subparagraph (A) to the Committee on the*
 9 *Judiciary of the Senate and the Committee on*
 10 *the Judiciary of the House of Representatives.*

11 *(2) SCOPE OF THE STUDY.—The study required*
 12 *under paragraph (1)(A) shall—*

13 *(A) assess—*

14 *(i) whether the patent pro bono pro-*
 15 *grams, as in effect on the date on which the*
 16 *study is commenced, are sufficiently serving*
 17 *prospective and existing participants;*

18 *(ii) whether the patent pro bono pro-*
 19 *grams are sufficiently funded to serve pro-*
 20 *spective participants;*

21 *(iii) whether any participation re-*
 22 *quirement of the patent pro bono programs,*
 23 *including any requirement to demonstrate*
 24 *knowledge of the patent system, serves as a*
 25 *deterrent for prospective participants;*

1 (iv) the degree to which prospective in-
 2 ventors are aware of the patent pro bono
 3 programs;

4 (v) what factors, if any, deter attorneys
 5 from participating in the patent pro bono
 6 programs;

7 (vi) whether the patent pro bono pro-
 8 grams would be improved by expanding
 9 those programs to include non-attorney ad-
 10 vocates; and

11 (vii) any other issue the Director deter-
 12 mines appropriate; and

13 (B) make recommendations for such admin-
 14 istrative and legislative action as may be appro-
 15 priate.

16 (b) *USE OF RESULTS.*—Upon completion of the study
 17 required under subsection (a), the Director shall work with
 18 the Pro Bono Advisory Council, the operators of the patent
 19 pro bono programs, and intellectual property law associa-
 20 tions across the United States to update the patent pro bono
 21 programs in response to the findings of the study.

22 (c) *EXPANSION OF INCOME ELIGIBILITY.*—

23 (1) *IN GENERAL.*—The Director shall work with
 24 and support, including by providing financial sup-
 25 port to, existing patent pro bono programs and intel-

1 *lectual property law associations across the United*
 2 *States to expand eligibility for the patent pro bono*
 3 *programs to an individual living in a household, the*
 4 *gross household income of which is not more than 400*
 5 *percent of the Federal poverty line.*

6 (2) *RULE OF CONSTRUCTION.*—*Nothing in para-*
 7 *graph (1) may be construed to prevent a patent pro*
 8 *bono program from electing to establish a higher eligi-*
 9 *bility level, as compared to the level described in that*
 10 *paragraph.*

11 **SEC. 6. PRE-PROSECUTION ASSESSMENT PILOT PROGRAM.**

12 (a) *PILOT PROGRAM.*—*Not later than 1 year after the*
 13 *date of enactment of this Act, the Director shall establish*
 14 *a pilot program to assist first-time prospective patent ap-*
 15 *plicants in assessing the strengths and weaknesses of a po-*
 16 *tential patent application submitted by such a prospective*
 17 *applicant.*

18 (b) *CONSIDERATIONS.*—*In developing the pilot pro-*
 19 *gram required under subsection (a), the Director shall es-*
 20 *tablish—*

21 (1) *a notification process to notify a prospective*
 22 *patent applicant seeking an assessment described in*
 23 *that subsection that any assessment so provided may*
 24 *not be considered an official ruling of patentability*
 25 *from the Office;*

1 (2) *conditions to determine eligibility for the*
 2 *pilot program, taking into consideration available re-*
 3 *sources;*

4 (3) *reasonable limitations on the amount of time*
 5 *to be spent providing assistance to each individual*
 6 *first-time prospective patent applicant;*

7 (4) *procedures for referring prospective patent*
 8 *applicants to legal counsel, including through the pat-*
 9 *ent pro bono programs; and*

10 (5) *procedures to protect the confidentiality of*
 11 *the information disclosed by prospective patent appli-*
 12 *cants.*

13 **SEC. 7. FEE REDUCTION FOR SMALL AND MICRO ENTITIES.**

14 (a) *TITLE 35.—Section 41(h) of title 35, United States*
 15 *Code, is amended—*

16 (1) *in paragraph (1), by striking “50 percent”*
 17 *and inserting “60 percent”; and*

18 (2) *in paragraph (3), by striking “75 percent”*
 19 *and inserting “80 percent”.*

20 (b) *FALSE CERTIFICATIONS.—Title 35, United States*
 21 *Code, is amended—*

22 (1) *in section 41, by adding at the end the fol-*
 23 *lowing:*

24 “(j) *PENALTY FOR FALSE ASSERTIONS.—In addition*
 25 *to any other penalty available under law, an entity that*

1 *is found to have falsely asserted entitlement to a fee reduc-*
 2 *tion under this section shall be subject to a fine, to be deter-*
 3 *mined by the Director, the amount of which shall be not*
 4 *less than 3 times the amount that the entity failed to pay*
 5 *as a result of the false assertion, whether the Director dis-*
 6 *covers the false assertion before or after the date on which*
 7 *a patent has been issued.”; and*

8 (2) *in section 123, by adding at the end the fol-*
 9 *lowing:*

10 “(f) *PENALTY FOR FALSE CERTIFICATIONS.—In addi-*
 11 *tion to any other penalty available under law, an entity*
 12 *that is found to have falsely made a certification under this*
 13 *section shall be subject to a fine, to be determined by the*
 14 *Director, the amount of which shall be not less than 3 times*
 15 *the amount that the entity failed to pay as a result of the*
 16 *false certification, whether the Director discovers the false*
 17 *certification before or after the date on which a patent has*
 18 *been issued.”.*

19 (c) *LEAHY-SMITH AMERICA INVENTS ACT.—Section*
 20 *10(b) of the Leahy Smith America Invents Act (35 U.S.C.*
 21 *41 note) is amended—*

22 (1) *by striking “50 percent” and inserting “60*
 23 *percent”;* and

24 (2) *by striking “75 percent” and inserting “80*
 25 *percent”.*

1 (d) *STUDY ON FEES.*—

2 (1) *IN GENERAL.*—Not later than 2 years after
3 the date of enactment of this Act, the Director shall—

4 (A) complete a study of the fees charged by
5 the Office; and

6 (B) submit the results of the study required
7 under subparagraph (A) to the Committee on the
8 Judiciary of the Senate and the Committee on
9 the Judiciary of the House of Representatives.

10 (2) *SCOPE OF STUDY.*—The study required under
11 paragraph (1)(A) shall—

12 (A) assess whether—

13 (i) fees for small and micro entities are
14 inhibiting the filing of patent applications
15 by those entities;

16 (ii) fees for examination should ap-
17 proximately match the costs of examination
18 and what incentives are created by using
19 maintenance fees to cover the costs of exam-
20 ination; and

21 (iii) the results of the assessments per-
22 formed under clauses (i) and (ii) counsel in
23 favor of changes to the fee structure of the
24 Office, such as—

1 (I) raising standard application
2 and examination fees;

3 (II) reducing standard maintenance fees; and

4 (III) reducing the fees for small
5 and micro entities as a percentage of
6 standard application fees; and

7 (B) make recommendations for such administrative and legislative action as may be appropriate.
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