117TH CONGRESS
2D SESSION

S. 5287

To jump-start economic recovery through the formation and growth of new businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2022

Mr. MORAN (for himself, Mr. WARNER, Mr. BLUNT, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To jump-start economic recovery through the formation and growth of new businesses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Startup Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Achieving economic recovery will require the formation and growth of new companies.

(2) Between 1980 and 2005, companies that were less than 5 years old accounted for nearly all net job creation in the United States.

(3) New firms in the United States create an average of 3,000,000 jobs per year.

(4) To get Americans back to work, entrepreneurs must be free to innovate, create new companies, and hire employees.

SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR IMMIGRANTS WITH AN ADVANCED DEGREE IN A STEM FIELD.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 216A the following:

"SEC. 216B. CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIENS WITH AN ADVANCED DEGREE IN A STEM FIELD.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security may—

"(1) adjust the status of not more than 50,000 aliens who have earned a master's degree or a doctorate degree at an institution of higher education in a STEM field to that of an alien conditionally admitted for permanent residence; and

"(2) authorize each alien granted an adjustment of status under paragraph (1) to remain in the United States—

"(A) for up to 1 year after the expiration of the alien's student visa under section 101(a)(15)(F)(i) if the alien is diligently searching for an opportunity to become actively engaged in a STEM field; and

"(B) indefinitely if the alien remains actively engaged in a STEM field.

"(b) APPLICATION FOR CONDITIONAL PERMANENT RESIDENT STATUS.—Every alien applying for conditional permanent resident status under this section shall submit an application to the Secretary of Homeland Security before the expiration of the alien's student visa in such form and manner as the Secretary shall prescribe by regulation.

"(c) INELIGIBILITY FOR FEDERAL GOVERNMENT ASSISTANCE.—An alien granted conditional permanent resident status under this section shall not be eligible, while in such status, for—

"(1) any unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986); or

"(2) any Federal means-tested public benefit (as that term is used in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)).

"(d) EFFECT ON NATURALIZATION RESIDENCY REQUIREMENT.—An alien granted conditional permanent resident status under this section shall be deemed to have been lawfully admitted for permanent residence for purposes of meeting the 5-year residency requirement under section 316(a)(1).

"(e) REMOVAL OF CONDITION.—The Secretary of Homeland Security shall remove the conditional basis of an alien's conditional permanent resident status under this section on the date that is 5 years after the date such status was granted if the alien maintained his or her eligibility for such status during the entire 5-year period.

"(f) DEFINITIONS.—In this section:

"(1) ACTIVELY ENGAGED IN A STEM FIELD.—The term 'actively engaged in a STEM field'—

"(A) means—

"(i) gainfully employed in a for profit business or nonprofit organization in the United States in a STEM field;

"(ii) teaching 1 or more STEM field courses at an institution of higher education; or

"(iii) employed by a Federal, State, or local government entity; and

"(B) includes any period of up to 6 months during which the alien does not meet the requirement under subparagraph (A) if such period was immediately preceded by a 1-year period during which the alien met the requirement under subparagraph (A).

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(3) STEM FIELD.—The term 'STEM field' means any field of study or occupation included on the most recent STEM-Designated Degree Program

List published in the Federal Register by the Department of Homeland Security (as described in section 214.2(f)(11)(i)(C)(2) of title 8, Code of Federal Regulations).''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 216A the following:

''Sec. 216B. Conditional permanent resident status for aliens with an advanced degree in a STEM field.''.

(c) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the alien college graduates who were granted immigrant status under section 216B of the Immigration and Nationality Act, as added by subsection (a).

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) the number of aliens described in paragraph (1) who have earned a master's degree, broken down by the number of such degrees in science, technology, engineering, and mathematics;

(B) the number of aliens described in paragraph (1) who have earned a doctorate degree, broken down by the number of such degrees in science, technology, engineering, and mathematics;

(C) the number of aliens described in paragraph (1) who have founded a business in the United States in a STEM field;

(D) the number of aliens described in paragraph (1) who are employed in the United States in a STEM field, broken down by employment sector (for-profit, nonprofit, or government); and

(E) the number of aliens described in paragraph (1) who are employed by an institution of higher education.

(3) DEFINITIONS.—The terms "institution of higher education" and "STEM field" have the meanings given such terms in section 216B(f) of the Immigration and Nationality Act, as added by subsection (a).

SEC. 4. IMMIGRANT ENTREPRENEURS.

(a) QUALIFIED ALIEN ENTREPRENEURS.—

(1) ADMISSION AS IMMIGRANTS.—Chapter 1 of title II of the Immigration and Nationality Act (8

U.S.C. 1151 et seq.) is amended by adding at the end the following:

“SEC. 210A. QUALIFIED ALIEN ENTREPRENEURS.

“(a) ADMISSION AS IMMIGRANTS.—The Secretary of Homeland Security may issue a conditional immigrant visa, in accordance with this section and section 216A, to not more than 75,000 qualified alien entrepreneurs.

“(b) APPLICATION FOR CONDITIONAL PERMANENT RESIDENT STATUS.—Every alien applying for a conditional immigrant visa under this section shall submit an application to the Secretary of Homeland Security in such form and manner as the Secretary shall prescribe by regulation.

“(c) REVOCATION.—If, during the 4-year period beginning on the date on which an alien is granted a visa under this section, the Secretary of Homeland Security determines that the alien is no longer a qualified alien entrepreneur, the Secretary shall—

“(1) revoke such visa; and

“(2) notify the alien that he or she—

“(A) may voluntarily depart from the United States in accordance with section 240B; or

“(B) will be subject to removal proceedings under section 240 if the alien does not depart from the United States not later than 6 months after receiving notification under this paragraph.

"(d) REMOVAL OF CONDITIONAL BASIS.—The Secretary of Homeland Security shall remove the conditional basis of the status of an alien issued an immigrant visa under this section on that date that is 4 years after the date on which such visa was issued if such visa was not revoked pursuant to subsection (c).

"(e) DEFINITIONS.—In this section:

"(1) FULL-TIME EMPLOYEE.—The term 'full-time employee' means a United States citizen or legal permanent resident who is paid by the new business entity registered by a qualified alien entrepreneur at a rate that is comparable to the median income of employees in the region.

"(2) QUALIFIED ALIEN ENTREPRENEUR.—The term 'qualified alien entrepreneur' means an alien who—

"(A) at the time the alien applies for an immigrant visa under this section—

"(i) is lawfully present in the United States; and "(ii)(I) holds a nonimmigrant visa issued pursuant to section 101(a)(15)(H)(i)(b); or

"(II) holds a nonimmigrant visa issued pursuant to section 101(a)(15)(F)(i);

"(B) during the 1-year period beginning on the date the alien is granted a visa under this section—

"(i) registers at least 1 new business entity in a State;

"(ii) employs, at such business entity in the United States, at least 2 full-time employees who are not relatives of the alien; and

"(iii) invests, or raises capital investment of, not less than $100,000 in such business entity; and

"(C) during the 3-year period beginning on the last day of the 1-year period described in paragraph (2), employs, at such business entity in the United States, an average of at least 5 full-time employees who are not relatives of the alien.".

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by adding after the item relating to section 210 the following:

(b) CONDITIONAL PERMANENT RESIDENT STATUS.—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(2) in subsection (b)(1)(C), by striking "203(b)(5)," and inserting "203(b)(5) or 210A, as appropriate,";

(3) in subsection (c)(1), by striking "alien entrepreneur must" each place such term appears and inserting "alien entrepreneur shall";

(4) in subsection (d)(1)(B), by striking the period at the end and inserting "or 210A, as appropriate."; and

(5) in subsection (f)(1), by striking the period at the end and inserting "or 210A.".

(c) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Comp-

troller General of the United States shall submit a report to Congress regarding the qualified alien entrepreneurs who were granted immigrant status under section 210A of the Immigration and Nationality Act, as added by subsection (a).

(2) CONTENTS.—The report described in paragraph (1) shall include information regarding—

(A) the number of qualified alien entrepreneurs who have received immigrant status under section 210A of the Immigration and Nationality Act, as added by subsection (a), listed by country of origin;

(B) the localities in which such qualified alien entrepreneurs have initially settled;

(C) whether such qualified alien entrepreneurs generally remain in the localities in which they initially settle;

(D) the types of commercial enterprises that such qualified alien entrepreneurs have established; and

(E) the types and number of jobs created by such qualified alien entrepreneurs.

SEC. 5. ELIMINATION OF THE PER COUNTRY NUMERICAL LIMITATION FOR EMPLOYMENT-BASED VISAS.

(a) IN GENERAL.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended—

(1) in the paragraph heading, by striking "AND EMPLOYMENT-BASED";

(2) by striking "(3), (4), and (5)," and inserting "(3) and (4),";

(3) by striking "subsections (a) and (b) of section 203" and inserting "section 203(a)";

(4) by striking "7" and inserting "15"; and

(5) by striking "such subsections" and inserting "such section".

(b) CONFORMING AMENDMENTS.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "both subsections (a) and (b) of section 203" and inserting "section 203(a)"; and

(B) by striking paragraph (5); and

(2) by amending subsection (e) to read as follows:

"(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visa numbers to natives under section 203(a), visa numbers with respect to natives of that state or area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).".

(c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking "subsection (e))" and inserting "subsection (d))"; and

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 2022, and shall apply to fiscal years beginning with fiscal year 2023.

(e) TRANSITION RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to this subsection and notwithstanding title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.), the following rules shall apply:

(A) For fiscal year 2023, 15 percent of the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of such Act (8 U.S.C. 1153(b)) shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 foreign states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2021 under such paragraphs.

(B) For fiscal year 2024, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 foreign states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2022 under such paragraphs.

(C) For fiscal year 2025, 10 percent of the immigrant visas made available under each of such paragraphs shall be allotted to immigrants who are natives of a foreign state or dependent area that was not 1 of the 2 foreign states with the largest aggregate numbers of natives obtaining immigrant visas during fiscal year 2023 under such paragraphs.

(2) PER-COUNTRY LEVELS.—

(A) RESERVED VISAS.—With respect to the visas reserved under each of subparagraphs (A) through (C) of paragraph (1), the number of such visas made available to natives of any single foreign state or dependent area in the appropriate fiscal year may not exceed 25 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas.

(B) UNRESERVED VISAS.—With respect to the immigrant visas made available under each of paragraphs (2) and (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) and not reserved under paragraph (1), for each of the fiscal years 2023, 2024, and 2025, not more than 85 percent shall be allotted to immigrants who are natives of any single foreign state.

(3) SPECIAL RULE TO PREVENT UNUSED VISAS.—If, with respect to fiscal year 2023, 2024, or 2025, the operation of paragraphs (1) and (2) would prevent the total number of immigrant visas made available under paragraph (2) or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) from being issued, such visas may be issued during the remainder of such fiscal year without regard to such paragraphs (1) and (2).

(4) RULES FOR CHARGEABILITY.—Section 202(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) shall apply in determining the foreign state to which an alien is chargeable for purposes of this subsection.

SEC. 6. ACCELERATED COMMERCIALIZATION OF TAXPAYER-FUNDED RESEARCH.

(a) DEFINITIONS.—In this section:

(1) COUNCIL.—The term ‘‘Council’’ means the Advisory Council on Innovation and Entrepreneurship of the Department of Commerce established pursuant to section 25(c) of the Stevenson-Wydler

Technology Innovation Act of 1980 (15 U.S.C. 3720(c)).

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an institution of higher education; or

(B) a venture development organization.

(3) EXTRAMURAL BUDGET.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''extramural budget'' means the sum of the total obligations minus amounts obligated for such activities by employees of the agency in or through Government-owned, Government-operated facilities.

(B) EXCEPTIONS.—The term ''extramural budget'' shall not include—

(i) with respect to the Department of Energy, amounts obligated for—

(I) atomic energy defense programs solely for weapons activities; or

(II) naval reactor programs; and

(ii) with respect to United States Agency for International Development, amounts obligated solely for—

(I) general institutional support of international research centers; or

(II) grants to foreign countries.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an entity or organization—

(A)(i) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under 501(a) of such Act; or

(B) described in paragraph (1) or (2) of section 170(c) of such Act.

(6) RESEARCH OR RESEARCH AND DEVELOPMENT.—The terms "research" and "research and development" mean any activity that is—

(A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(8) STATE ORGANIZATION.—The term ''State organization'' means an entity that has been created by—

(A) a State;

(B) the Commonwealth of Puerto Rico; or

(C) the District of Columbia.

(9) VENTURE DEVELOPMENT ORGANIZATION.—The term ''venture development organization'' means a State or nonprofit organization that contributes to regional or sector-based economic prosperity by providing a portfolio of services intended to accomplish at least 3 of the following purposes:

(A) Accelerating the commercialization of research or research and development.

(B) Assisting in the creation of high-growth private enterprises that are commercializing technology.

(C) Strengthening the competitive position of existing small- and medium-sized enterprises through the development, commercial adoption, or deployment of technology.

(D) Providing expert assistance to—

(i) private companies;

(ii) faculty, staff, and students of institutions of higher education who are commercializing new products or services; or

(iii) entrepreneurs who are commercializing new products or services.

(E) Providing financial grants, loans, or direct financial investment in companies that are commercializing technology.

(b) GRANT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—Each Federal agency that has an extramural budget for research or research and development that is in excess of $100,000,000 for each of the fiscal years 2023 through 2027, shall transfer 0.15 percent of such extramural budget for each of such fiscal years to the Secretary to enable the Secretary to carry out a grant program in accordance with this subsection.

(2) GRANTS.—

(A) AWARDING OF GRANTS.—

(i) IN GENERAL.—From funds transferred pursuant to paragraph (1), the Secretary shall use the criteria developed by the Council to award grants to eligible entities for initiatives to improve commercialization and transfer of technology.

(ii) REQUEST FOR PROPOSALS.—Not later than 30 days after the Council submits the recommendations for criteria to the Secretary under subsection (c)(4)(B), and annually thereafter for each fiscal year for which the grant program is authorized, the Secretary shall release a request for proposals.

(iii) APPLICATIONS.—Eligible entities that desire to receive a grant under this subsection shall submit an application to the Secretary not later than 90 days after the Secretary releases the request for proposals under clause (ii).

(iv) COUNCIL REVIEW.—

(I) IN GENERAL.—The Secretary shall submit each application received under clause (iii) to the Council for Council review.

(II) RECOMMENDATIONS.—The Council shall review each application received under subclause (I) and submit recommendations for grant awards to the Secretary, including funding recommendations for each proposal.

(III) PUBLIC RELEASE.—The Council shall publicly release any recommendations made under subclause (II).

(IV) CONSIDERATION OF RECOMMENDATIONS.—In awarding grants under this subsection, the Secretary shall take into consideration the recommendations of the Council under subclause (II).

(B) COMMERCIALIZATION CAPACITY BUILDING GRANTS.—

(i) IN GENERAL.—The Secretary shall award grants to eligible entities to support specific innovative initiatives to improve the regional capacity for private companies, faculty, staff, and students of institutions of higher education, or entrepreneurs to commercialize technology originating from federally funded research.

(ii) CONTENT OF PROPOSALS.—Grants shall be awarded under this subparagraph for—

(I) proposals demonstrating the capacity for accelerated commercialization, proof-of-concept proficiency, and translating scientific discoveries and cutting-edge inventions into technological innovations and new companies; and

(II) innovative approaches to achieving the goals referred to in subclause (I) that can be replicated by other institutions of higher education or venture development organizations if the innovative approaches are successful.

(3) ASSESSMENT OF SUCCESS.—Grants awarded under this subsection shall use criteria for assessing the success of programs through the establishment of benchmarks.

(4) TERMINATION.—The Secretary is authorized to terminate grant funding to an eligible entity in accordance with the process and performance metrics recommended by the Council.

(5) LIMITATIONS.—

(A) PROJECT MANAGEMENT COSTS.—A grant recipient may use not more than 10 percent of grant funds awarded under this subsection for the purpose of funding project management costs of the grant program.

(B) SUPPLEMENT, NOT SUPPLANT.—An eligible entity that receives a grant under this subsection shall use the grant funds to supplement, and not to supplant, non-Federal funds that would, in the absence of such grant funds, be made available for activities described in this section.

(6) UNSPENT FUNDS.—Any funds transferred to the Secretary under paragraph (1) for a fiscal year that are not expended by the end of such fiscal year may be expended in any subsequent fiscal year through fiscal year 2027. Any funds transferred under paragraph (1) that are remaining at the end of the grant program's authorization under this subsection shall be transferred to the Treasury for deficit reduction.

(c) COUNCIL.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the

Council shall convene and develop recommendations for criteria in awarding grants to eligible entities under subsection (b).

(2) SUBMISSION TO DEPARTMENT OF COMMERCE AND PUBLIC RELEASE.—The Council shall—

(A) submit the recommendations described in paragraph (1) to the Secretary; and

(B) release the recommendations to the public.

(3) MAJORITY VOTE.—The recommendations submitted by the Council under paragraph (2) shall be determined by a majority vote of Council members.

(4) PERFORMANCE METRICS.—The Council shall develop and provide to the Secretary recommendations on performance metrics to be used to evaluate grants awarded under subsection (b).

(5) EVALUATION.—

(A) IN GENERAL.—Not later than 180 days before the expiration of the grant program authorized under subsection (b), the Council shall evaluate the effect of the grant program on accelerating the commercialization of technology originating from federally funded research or research and development.

(B) INCLUSIONS.—The evaluation under subparagraph (A) shall include—

(i) the recommendation of the Council as to whether the grant program should be continued or terminated;

(ii) quantitative data related to the effect, if any, that the grant program has had on accelerating the commercialization of technology originating from federally funded research and research and development; and

(iii) a description of the lessons learned in administering the grant program, and how such lessons could be applied to future efforts to accelerate the commercialization of technology originating from federally funded research or research and development.

(C) AVAILABILITY.—The results of the evaluation under subparagraph (A) shall be made available on a public website and submitted to Congress. The Secretary shall notify all institutions of higher education when the evaluation is published and how it can be accessed.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter, modify, or amend any provision of chapter 18 of title 35, United States Code (commonly known as the "Bayh-Dole Act").

SEC. 7. REGIONAL INNOVATION CLUSTERS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the meaning given the term "Native Corporation" in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) AWARD.—The term "award" means a contract, grant, or cooperative agreement.

(4) CLUSTER INITIATIVE.—The term "Cluster Initiative" means a formally organized effort to promote the growth and competitiveness of an industry sector through collaborative activities among Industry Cluster participants that is led by—

(A) a State;

(B) an Indian Tribe, an Alaska Native Corporation, or a Native Hawaiian Organization;

(C) a city or other political subdivision of a State;

(D) a nonprofit organization, including an institution of higher education or a venture development organization; or

(E) a small business concern.

(5) INDUSTRY CLUSTER.—The term "Industry Cluster" means a geographic concentration, relative to the size of the region under consideration, of interconnected businesses, suppliers, service providers, and associated institutions in an industry sector, including advanced manufacturing, precision agriculture, cybersecurity, biosciences, water technologies, energy production and efficiency, and outdoor recreation.

(6) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term "Indian tribe" in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(7) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(8) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian Organization" has the

meaning given the term in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(9) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(b) SUPPORTING INDUSTRY CLUSTERS.—

(1) AUTHORIZATION.—The Administrator shall make awards to Cluster Initiatives that strengthen Industry Clusters in accordance with the requirements under this subsection.

(2) INDUSTRY CLUSTER OUTCOMES.—Cluster Initiatives shall be assessed according to their performance along the following metrics:

(A) Growth in number of small business concerns participating in the Industry Cluster and support industries.

(B) Growth in number of small business concern startups in the Industry Cluster.

(C) Growth in total capital, including revenue and equity investments, flowing to small business concern participants in the Industry Cluster.

(D) Growth in job creation by small business concerns or, in regions with declining total employment, job retention by small business concerns in the Industry Cluster.

(E) Growth in new products, services, or business lines.

(F) Growth in new technologies developed within the Industry Cluster.

(3) REPORTING.—The Administrator shall require Cluster Initiatives to submit annual reports documenting the outcomes under paragraph (2) and the activities contributing to such outcomes.

(4) SELECTION CRITERIA.—In making awards to Cluster Initiatives under this subsection, the Administrator shall consider—

(A) the probable impact of the Cluster Initiative on the competitiveness of the Industry Cluster, including—

(i) whether the Cluster Initiative will be inclusive of any and all organizations that might benefit from participation, including startups, small business concerns not locally owned, and small business concerns rival to existing members of the Industry Cluster; and

(ii) whether the Cluster Initiative will encourage broad participation by and collaboration among all types of participants;

(B) if the proposed Cluster Initiative fits within a broader and achievable economic development strategy;

(C) the capacity and commitment of the sponsoring organization of the Cluster Initiative organization, including—

(i) the expected ability of the Cluster Initiative to access additional funds from other sources; and

(ii) the capacity of the Cluster Initiative to sustain activities once grant funds have been expended;

(D) the degree of involvement from relevant State and regional economic and workforce development organizations, other public purpose institutions (such as universities, community colleges, venture development organizations, and workforce boards), and the private sector, including industry associations;

(E) the extent to which economic diversity across regions of the United States would be increased through the award; and

(F) the geographic distribution of Cluster Initiatives around the United States.

(5) INITIAL AWARD.—The Administrator may make a 1-year award (not to exceed $1,000,000) with each Cluster Initiative.

(6) RENEWAL.—

(A) IN GENERAL.—The Administrator may renew an award made to a Cluster Initiative under paragraph (5)—

(i) for 1 year in an amount not to exceed $750,000 per year; and

(ii) for a total period not to exceed 5 years.

(B) REQUIREMENT.—A Cluster Initiative shall compete in a new funding opportunity to receive any further awards under this subsection.

(7) MATCHING FUNDS.—

(A) IN GENERAL.—As a condition of receiving an award under this subsection, a Cluster Initiative shall provide $1 in non-Federal matching funds, including in-kind contributions, for every $2 received under the award.

(B) WAIVER.—The Administrator may waive part of the matching funds requirement under subparagraph (A) for a Cluster Initiative that—

(i) has not previously received an award under this subsection; or

(ii) supports a noncore area, a micropolitan area, or a small metropolitan statistical area with a population of not more than 200,000.

(8) COMPETITIVE PROCESS.—The Administrator shall enter into new awards under this subsection for each year that appropriations are available.

(c) FEASIBILITY STUDY AWARDS.—

(1) IN GENERAL.—The Administrator may make awards for feasibility studies, planning, and operations to support the launch of new Cluster Initiatives.

(2) AMOUNT.—The total amount of awards made under paragraph (1) shall not exceed $250,000.

(3) ELIGIBLE RECIPIENTS.—The Administrator may make awards under paragraph (1) to—

(A) a State;

(B) an Indian Tribe, an Alaska Native Corporation, or a Native Hawaiian Organization;

(C) a city or other political subdivision of a State;

(D) a nonprofit organization, including an institution of higher education or a venture development organization; or

(E) a consortium consisting of entities described in subparagraphs (A) through (D).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for fiscal year 2023 and for each subsequent fiscal year to carry out this section.

SEC. 8. ECONOMIC IMPACT OF SIGNIFICANT FEDERAL AGENCY RULES.

Section 553 of title 5, United States Code, is amended by adding at the end the following:

"(f) REQUIRED REVIEW BEFORE ISSUANCE OF SIGNIFICANT RULES.—

"(1) DEFINED TERM.—In this subsection the term 'significant rule' means a rule that is likely—

"(A) to have an annual effect on the economy of $100,000,000 or more;

"(B) to adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or

"(C) to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

"(2) REVIEW.—Before issuing a notice of proposed rulemaking in the Federal Register regarding the issuance of a significant rule, the head of the Federal agency or independent regulatory agency seeking to issue the rule shall complete a review, to the extent permitted by law, that—

"(A) analyzes the problem that the proposed rule intends to address, including—

"(i) the specific market failure, such as externalities, market power, or lack of information, that justifies such rule; or "(ii) any other specific problem, such as the failures of public institutions, that justifies such rule;

"(B) analyzes the expected impact of the proposed rule on the ability of new businesses to form and expand;

"(C) identifies the expected impact of the proposed rule on State, local, and tribal governments, including the availability of resources—

"(i) to carry out the mandates imposed by the rule on such government entities; and

"(ii) to minimize the burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives;

"(D) identifies any conflicting or duplicative regulations;

"(E) determines—

"(i) if existing laws or regulations created, or contributed to, the problem that the new rule is intended to correct; and

"(ii) if the laws or regulations referred to in clause (i) should be modified to more effectively achieve the intended goal of the rule; and

"(F) includes the cost-benefit analysis described in paragraph (3).

"(3) COST-BENEFIT ANALYSIS.—A cost-benefit analysis described in this paragraph shall include—

"(A)(i) an assessment, including the underlying analysis, of benefits anticipated from the proposed rule, such as—

"(I) promoting the efficient functioning of the economy and private markets;

"(II) enhancing health and safety;

"(III) protecting the natural environment; and

"(IV) eliminating or reducing discrimination or bias; and

"(ii) the quantification of the benefits described in clause (i), to the extent feasible;

"(B)(i) an assessment, including the underlying analysis, of costs anticipated from the proposed rule, such as—

"(I) the direct costs to the Federal Government to administer the rule;

"(II) the direct costs to businesses and others to comply with the rule; and

"(III) any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment; and

"(ii) the quantification of the costs described in clause (i), to the extent feasible;

"(C)(i) an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the proposed rule, which have been identified by the agency or by the public, including taking reasonably viable nonregulatory actions; and

"(ii) an explanation of why the proposed rule is preferable to the alternatives identified under clause (i).

"(4) REPORT.—Before issuing a notice of proposed rulemaking in the Federal Register regarding the issuance of a significant rule, the head of the Federal agency or independent regulatory agency seeking to issue the rule shall—

"(A) submit the results of the review conducted under paragraph (2) to the appropriate congressional committees; and

"(B) post the results of the review conducted under paragraph (2) on a publicly available website.

"(5) JUDICIAL REVIEW.—Any determinations made, or other actions taken, by an agency or independent regulatory agency under this subsection shall not be subject to judicial review.".

SEC. 9. FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.

Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (c)—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (h)(1), by striking "$10,000,000 for each of fiscal years 2001 through 2005" and inserting "$50,000,000 for each of the fiscal years 2023 through 2027"; and

(3) by striking subsection (i).

SEC. 10. BIENNIAL STATE STARTUP BUSINESS REPORT.

(a) DATA COLLECTION.—The Secretary of Commerce shall regularly compile information from each of the 50 States and the District of Columbia on State laws that affect the formation and growth of new businesses within the State or District.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, and every 2 years thereafter, the Secretary of Commerce, using data compiled under subsection (a), shall prepare a report that—

(1) analyzes the economic effect of State and District laws that either encourage or inhibit business formation and growth; and

(2) ranks the States and the District based on the effectiveness with which their laws foster new business creation and economic growth.

(c) DISTRIBUTION.—The Secretary of Commerce shall—

(1) submit each report prepared under subsection (b) to Congress; and

(2) make each report available to the public on the website of the Department of Commerce.

(d) INCLUSION OF LARGE METROPOLITAN AREAS.—Not later than 90 days after the submission of the first report under this section, the Secretary of Commerce shall submit to Congress a study on the feasibility and advisability of including, in future reports, information about the effect of local laws and ordinances on the formation and growth of new businesses in large metropolitan areas within the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 11. NEW BUSINESS FORMATION REPORT.

(a) IN GENERAL.—The Secretary of Commerce shall regularly compile quantitative and qualitative information on businesses in the United States that are not more than 1 year old.

(b) DATA COLLECTION.—The Secretary of Commerce shall—

(1) regularly compile information from the Bureau of the Census' business register on new business formation in the United States; and

(2) conduct quarterly surveys of business owners who start a business during the 1-year period ending on the date on which such survey is conducted to gather qualitative information about the factors that influenced their decision to start the business.

(c) RANDOM SAMPLING.—In conducting surveys under subsection (b)(2), the Secretary may use random sampling to identify a group of business owners who are representative of all the business owners described in subsection (b)(2).

(d) BENEFITS.—The Secretary of Commerce shall inform business owners selected to participate in a survey conducted under this section of the benefits they would receive from participating in the survey.

(e) VOLUNTARY PARTICIPATION.—Business owners selected to participate in a survey conducted under this section may decline to participate without penalty.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, and every 3 months thereafter, the Secretary of Commerce shall use the data compiled under subsection (b) to prepare a report that—

(1) lists the aggregate number of new businesses formed in the United States;

(2) lists the aggregate number of persons employed by new businesses formed in the United States;

(3) analyzes the payroll of new businesses formed in the United States;

(4) summarizes the data collected under subsection (b); and

(5) identifies the most effective means by which government officials can encourage the formation and growth of new businesses in the United States.

(g) DISTRIBUTION.—The Secretary of Commerce shall—

(1) submit each report prepared under subsection (f) to Congress; and

(2) make each report available to the public on the website of the Department of Commerce.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 12. RESCISSION OF UNSPENT FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds for fiscal year 2022, the amount necessary to carry out this Act and the amendments made by this Act in appropriated discretionary funds are hereby rescinded.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under subsection (a) shall apply and the amount of such rescission that shall apply to each such account.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under subsection (b).

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