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

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

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Unleashing American Innovators Act of 2021”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term “Director” means the Under Secretary of Commerce for Intellectual Property and Director of the Office.
(2) **Office.**—The term “Office” means the United States Patent and Trademark Office.

(3) **Patent pro bono programs.**—The term “patent pro bono programs” means the programs established pursuant to section 32 of the Leahy-Smith America Invents Act (35 U.S.C. 2 note).

(4) **Southeast region of the United States.**—The term “southeast region of the United States” means the area of the United States that is comprised of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Louisiana, and Arkansas.

**SEC. 3. SATELLITE OFFICES.**

(a) **Amendments to purpose and required considerations.**—Section 23 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “increase outreach activities 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 south-east 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 whether additional satellite offices of the Office are necessary to—

(1) achieve the purposes described in section 23(b) of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), as amended by this section; and
(2) increase participation in the patent system
by women, people of color, veterans, individual in-
ventors, or members of any other demographic, geo-
graphic, or economic group that the Director may
determine to be underrepresented in patent filings.

SEC. 4. COMMUNITY OUTREACH OFFICES.

(a) Establishment.—

(1) In general.—Subject to paragraphs (2)
and (3), not later than 5 years after the date of en-
actment of this Act, the Director shall establish not
fewer than 2 community outreach offices in each re-

gion of the United States that, as of that date of en-
actment, is served by—

(A) a satellite office of the Office; or

(B) the principal office of the Office.

(2) Restriction.—No community outreach of-

cifice established under paragraph (1) may be located
in the same State as—

(A) the principal office of the Office; or

(B) any satellite office of the Office.

(3) Requirement for northern new eng-

land region.—

(A) In general.—The Director shall es-

tablish not less than 1 community outreach of-

cifice under this subsection in the northern New
England region, which shall serve the States of Vermont, New Hampshire, and Maine.

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

(i) as of the date of enactment of this Act—

(I) there is located not less than 1 public institution of higher education and not less than 1 private institution of higher education; and

(II) there are located not more than 15 registered patent attorneys, according to data from the Office of Enrollment and Discipline of the Office; and

(ii) according to data from the 2012 Survey of Business Owners conducted by the Bureau of the Census, less than 45 percent of the firms are owned by women, minorities, or veterans.

(b) PURPOSES.—The purposes of the community outreach offices established under subsection (a) are to—
(1) further achieve the purposes described in section 23(b)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), as amended by this Act;

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

(A) provide education regarding the patent system; and

(B) promote the career benefits of innovation and entrepreneurship; and

(3) educate prospective inventors, including veterans, individual inventors, and individuals from demographic, geographic, or economic groups that the Director may determine to be underrepresented in patent filings, about all public and private resources available to potential patent applicants, including the patent pro bono programs.

(c) SUBORDINATE TO SATELLITE OFFICES.—The community outreach offices established under this section shall be subordinate, and report directly, to the principal office of the Office or the satellite office of the Office that corresponds to the region in which that community outreach office is located, as applicable.
SEC. 5. UPDATES TO THE PATENT PRO BONO PROGRAM.

(a) Study and Updates.—

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

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

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

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

(A) assess—

(i) whether the patent pro bono programs, as in effect on the date on which the study is commenced, are sufficiently serving veterans, individual inventors, and members of demographic, geographic, and economic groups that the Director may determine to be underrepresented in patent filings;

(ii) whether the patent pro bono programs are sufficiently funded to serve prospective participants;
(iii) whether the participation requirements of the patent pro bono programs, including the requirement to demonstrate knowledge of the patent system, serve as a deterrent for prospective participants;

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

(v) the degree to which the length of prosecution time for pro bono applicants serves as a deterrent for attorneys to participate in the patent pro bono programs; and

(vi) any other issue the Director determines appropriate; and

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

(b) Use of Results.—Upon completion of the study required under subsection (a), the Director shall work with the Patent Pro Bono Advisory Council, existing regional programs, and intellectual property law associations across the United States to update the patent pro bono programs in response to the findings of the study.
(c) Expansion of Income Eligibility.—The Director shall work with and support existing (as of the date of enactment of this Act) regional programs and intellectual property law associations across the United States to expand eligibility for the patent pro bono programs to an individual living in a household, the gross household income of which is not more than 400 percent of the Federal poverty line.

SEC. 6. PRE-PROSECUTION PATENTABILITY ASSESSMENT PILOT PROGRAM.

(a) Pilot Program.—Not later than 1 year after the date of enactment of this Act, the Director shall establish a pilot program to assist first-time prospective patent applicants in assessing the viability of a potential patent application submitted by such a prospective applicant.

(b) Considerations.—In developing the pilot program required under subsection (a), the Director shall establish—

(1) a notification process to notify a prospective patent applicant seeking an assessment described in that subsection that any assessment so provided may not be considered an official ruling of patentability from the Office;
(2) conditions to determine eligibility for the
pilot program, taking into consideration available re-
resources;

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

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

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

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

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

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

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