

111TH CONGRESS
1ST SESSION

H. R. 2965

To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2009

Mr. ALTMIRE (for himself, Mr. WU, Mr. GRAVES, Ms. VELÁZQUEZ, Mr. SCHOCK, Mr. NYE, Mrs. HALVORSON, and Mr. BRIGHT) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Enhancing Small Business Research and Innovation Act
6 of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL
 OPERATING COMPANY INVOLVEMENT

Sec. 101. Extension of termination dates.

Sec. 102. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR and STTR programs.

TITLE II—COMMERCIALIZATION ACTIVITIES AND RESEARCH
 TOPICS DESERVING SPECIAL CONSIDERATION

Sec. 201. Focus on commercialization.

Sec. 202. Inclusion of energy-related research topics and rare disease-related research topics as deserving “special consideration” as SBIR research topics.

Sec. 203. Nanotechnology-related research topics.

Sec. 204. Clarifying the definition of “Phase Three”.

Sec. 205. Agency research goals.

Sec. 206. Commercialization programs.

TITLE III—RURAL DEVELOPMENT AND OUTREACH

Sec. 301. Outreach and support activities.

Sec. 302. Rural preference.

Sec. 303. Obtaining SBIR applicant’s consent to release contact information to economic development organizations.

Sec. 304. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.

TITLE IV—SBIR AND STTR ENHANCEMENT

Sec. 401. Increased number of research topic solicitations annually and shortened period for final decisions on applications.

Sec. 402. Agencies should fund vital R&D projects with the potential for commercialization.

Sec. 403. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.

Sec. 404. Funding for administrative, oversight, and contract processing costs.

Sec. 405. Comptroller general audit of how Federal agencies calculate extramural research budgets.

Sec. 406. Agency databases to support program evaluation.

Sec. 407. Agency databases to support technology utilization.

Sec. 408. Interagency Policy Committee.

Sec. 409. National Research Council SBIR Study.

Sec. 410. Express authority to “fast-track” Phase Two awards for promising Phase One research.

Sec. 411. Increased SBIR and STTR award levels.

Sec. 412. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.

Sec. 413. First phase required.

1 **TITLE I—PROGRAM EXTENSION**
2 **AND VENTURE CAPITAL OP-**
3 **ERATING COMPANY INVOLVE-**
4 **MENT**

5 **SEC. 101. EXTENSION OF TERMINATION DATES.**

6 (a) SBIR.—Section 9(m) of the Small Business Act
7 (15 U.S.C. 638(m)) is amended by striking “2008” and
8 inserting “2011”.

9 (b) STTR.—Section 9(n)(1)(A) of the Small Busi-
10 ness Act (15 U.S.C. 638(n)(1)(A)) is amended by striking
11 “2009” and inserting “2011”.

12 **SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSI-**
13 **NESSES WITH SUBSTANTIAL INVESTMENT**
14 **FROM VENTURE CAPITAL OPERATING COM-**
15 **PANIES ARE ABLE TO PARTICIPATE IN THE**
16 **SBIR AND STTR PROGRAMS.**

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

19 “(aa) VENTURE CAPITAL OPERATING COMPANIES.—
20 Effective only for the SBIR and STTR programs the fol-
21 lowing shall apply:

22 “(1) A business concern that has more than
23 500 employees shall not qualify as a small business
24 concern.

1 “(2) In determining whether a small business
2 concern is independently owned and operated under
3 section 3(a)(1) or meets the small business size
4 standards instituted under section 3(a)(2), the Ad-
5 ministrator shall not consider a business concern to
6 be affiliated with a venture capital operating com-
7 pany (or with any other business that the venture
8 capital operating company has financed) if—

9 “(A) the venture capital operating com-
10 pany does not own 50 percent or more of the
11 business concern; and

12 “(B) employees of the venture capital oper-
13 ating company do not constitute a majority of
14 the board of directors of the business concern.

15 “(3) A business concern shall be deemed to be
16 ‘independently owned and operated’ if—

17 “(A) it is owned in majority part by one or
18 more natural persons or venture capital oper-
19 ating companies;

20 “(B) there is no single venture capital op-
21 erating company that owns 50 percent or more
22 of the business concern; and

23 “(C) there is no single venture capital op-
24 erating company the employees of which con-

1 stitute a majority of the board of directors of
2 the business concern.

3 “(4) If a venture capital operating company
4 controlled by a business with more than 500 employ-
5 ees (in this paragraph referred to as a ‘VCOC under
6 large business control’) has an ownership interest in
7 a small business concern that is owned in majority
8 part by venture capital operating companies, the
9 small business concern is eligible to receive an award
10 under the SBIR or STTR program only if—

11 “(A) not more than two VCOCs under
12 large business control have an ownership inter-
13 est in the small business concern; and

14 “(B) the VCOCs under large business con-
15 trol do not collectively own more than 20 per-
16 cent of the small business concern.

17 “(5) The term ‘venture capital operating com-
18 pany’ means a business concern—

19 “(A) that—

20 “(i) is a Venture Capital Operating
21 Company, as that term is defined in regu-
22 lations promulgated by the Secretary of
23 Labor; or

24 “(ii) is an entity that—

1 “(I) is registered under the In-
2 vestment Company Act of 1940 (15
3 U.S.C. 80a–51 et seq.); or

4 “(II) is an investment company,
5 as defined in section 3(c)(1) of such
6 Act (15 U.S.C. 80a–3(c)(1)), which is
7 not registered under such Act because
8 it is beneficially owned by less than
9 100 persons; and

10 “(B) that is itself organized or incor-
11 porated and domiciled in the United States, or
12 is controlled by a business concern that is incor-
13 porated and domiciled in the United States.”.

14 **TITLE II—COMMERCIALIZATION**
15 **ACTIVITIES AND RESEARCH**
16 **TOPICS DESERVING SPECIAL**
17 **CONSIDERATION**

18 **SEC. 201. FOCUS ON COMMERCIALIZATION.**

19 Section 9(a) of the Small Business Act (15 U.S.C.
20 638(a)) is amended by adding at the end the following:
21 “It is further the policy of Congress that the programs
22 established in this section should focus on promoting re-
23 search and development of projects governed by commer-
24 cial business plans, which have significant potential to

1 produce products or services for the marketplace or for
2 acquisition by Federal agencies.”.

3 **SEC. 202. INCLUSION OF ENERGY-RELATED RESEARCH**
4 **TOPICS AND RARE DISEASE-RELATED RE-**
5 **SEARCH TOPICS AS DESERVING “SPECIAL**
6 **CONSIDERATION” AS SBIR RESEARCH TOP-**
7 **ICS.**

8 Section 9(g)(3) of the Small Business Act (15 U.S.C.
9 638(g)(3)) is amended—

10 (1) in the matter preceding subparagraph (A)
11 by inserting after “critical technologies” the fol-
12 lowing: “or pressing research priorities”;

13 (2) at the end of subparagraph (A) by striking
14 “or”; and

15 (3) by adding at the end the following:

16 “(C) the National Academy of Sciences, in
17 the final report issued by the ‘America’s Energy
18 Future: Technology Opportunities, Risks, and
19 Tradeoffs’ project, and in subsequent reports
20 issued by the National Academy of Sciences on
21 sustainability, energy, and alternative fuels;

22 “(D) the National Institutes of Health, in
23 the annual report on the rare diseases research
24 activities of the National Institutes of Health
25 for fiscal year 2005, and in subsequent reports

1 issued by the National Institutes of Health on
2 rare diseases research activities; or

3 “(E) the National Academy of Sciences, in
4 the final report issued by the ‘Transit Research
5 and Development: Federal Role in the National
6 Program’ project and the ‘Transportation Re-
7 search, Development and Technology Strategic
8 Plan (2006–2010)’ issued by the United States
9 Department of Transportation Research and
10 Innovative Technology Administration, and in
11 subsequent reports issued by the National
12 Academy of Sciences and United States Depart-
13 ment of Transportation on transportation and
14 infrastructure;”.

15 **SEC. 203. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.**

16 (a) SBIR.—Section 9(g)(3) of the Small Business
17 Act (15 U.S.C. 638(g)(3)), as amended, is further amend-
18 ed—

19 (1) at the end of subparagraph (D) by striking
20 “or”;

21 (2) at the end of subparagraph (E) by adding
22 “or”; and

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

24 “(F) the national nanotechnology strategic
25 plan required under section 2(c)(4) of the 21st

1 Century Nanotechnology Research and Develop-
2 ment Act (15 U.S.C. 7501(c)(4)) and in subse-
3 quent reports issued by the National Science
4 and Technology Council Committee on Tech-
5 nology, focusing on areas of nanotechnology
6 identified in such plan;”.

7 (b) STTR.—Section 9(o)(3) of the Small Business
8 Act (15 U.S.C. 638(o)(3)) is amended—

9 (1) at the end of subparagraph (A) by striking
10 “or”;

11 (2) at the end of subparagraph (B) by adding
12 “or”; and

13 (3) by adding at the end the following:

14 “(C) by the national nanotechnology stra-
15 tegic plan required under section 2(c)(4) of the
16 21st Century Nanotechnology Research and De-
17 velopment Act (15 U.S.C. 7501(c)(4)) and in
18 subsequent reports issued by the National
19 Science and Technology Council Committee on
20 Technology, focusing on areas of nanotechnolo-
21 gy identified in such plan;”.

22 **SEC. 204. CLARIFYING THE DEFINITION OF “PHASE**
23 **THREE”.**

24 Section 9(e) of the Small Business Act (15 U.S.C.
25 638(e)) is amended—

1 (1) in paragraph (4)(C) in the matter preceding
2 clause (i) by inserting after “a third phase” the fol-
3 lowing: “, which shall consist of work that derives
4 from, extends, or logically concludes efforts per-
5 formed under prior SBIR funding agreements
6 (which may be referred to as ‘Phase III’)”;

7 (2) in paragraph (8) by striking “and” at the
8 end;

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

11 (4) by adding at the end the following:

12 “(10) the term ‘commercialization’ means the
13 process of developing marketable products or serv-
14 ices and producing and delivering products or serv-
15 ices for sale (whether by the originating party or by
16 others) to government or commercial markets.”.

17 **SEC. 205. AGENCY RESEARCH GOALS.**

18 Section 9 of the Small Business Act (15 U.S.C. 638),
19 as amended, is further amended by striking subsection (h)
20 and inserting the following:

21 “(h) AGENCY RESEARCH GOALS.—

22 “(1) IN GENERAL.—In addition to the require-
23 ments of subsection (f), each Federal agency that is
24 required by this section to have an SBIR program
25 and that awards annually \$5,000,000,000 or more

1 in procurement contracts shall, effective for fiscal
2 year 2010 and each fiscal year thereafter, establish
3 annual goals for commercialization of projects fund-
4 ed by SBIR awards.

5 “(2) SPECIFIC GOALS.—The goals required by
6 paragraph (1) shall include specific goals for each of
7 the following:

8 “(A) The percentage of SBIR projects that
9 receive funding for the third phase (as defined
10 in subsection (e)(4)(C)).

11 “(B) The percentage of SBIR projects that
12 are successfully integrated into a program of
13 record.

14 “(C) The amount of Federal dollars re-
15 ceived by SBIR projects through Federal con-
16 tracts, not including dollars received through
17 the SBIR program.

18 “(3) SUBMISSION TO COMMITTEES.—For each
19 fiscal year for which goals are required by paragraph
20 (1), the agency shall submit to the Committee on
21 Small Business and the Committee on Science and
22 Technology of the House of Representatives and the
23 Committee on Small Business and Entrepreneurship
24 of the Senate—

1 “(A) not later than 60 days after the be-
2 ginning of the fiscal year, the goals; and

3 “(B) not later than 90 days after the end
4 of the fiscal year, data on the extent to which
5 the goals were met and a description of the
6 methodology used to collect such data.”.

7 **SEC. 206. COMMERCIALIZATION PROGRAMS.**

8 Section 9 of the Small Business Act (15 U.S.C. 638)
9 as amended, is further amended, by adding at the end the
10 following:

11 “(bb) COMMERCIALIZATION PROGRAMS.—

12 “(1) IN GENERAL.—Each agency required by
13 this section to conduct an SBIR program shall es-
14 tablish a commercialization program that supports
15 the progress of SBIR awardees to the third phase.
16 The commercialization program may include activi-
17 ties such as partnership databases, partnership con-
18 ferences, multiple second phases, mentoring between
19 prime contractors and SBIR awardees, multiple sec-
20 ond phases with matching private investment re-
21 quirements, jumbo awards, SBIR helpdesks, and
22 transition assistance programs. The agency shall in-
23 clude in its annual report an analysis of the various
24 activities considered for inclusion in the commer-
25 cialization program and a statement of the reasons

1 why each activity considered was included or not in-
2 cluded, as the case may be.

3 “(2) FUNDING FOR COMMERCIALIZATION PRO-
4 GRAMS.—

5 “(A) IN GENERAL.—From amounts made
6 available to carry out this paragraph, the Ad-
7 ministrator may, on petition by agencies re-
8 quired by this section to conduct an SBIR pro-
9 gram, transfer funds to such agencies to sup-
10 port the commercialization programs of such
11 agencies.

12 “(B) PETITIONS.—The Administrator shall
13 establish rules for making transfers under sub-
14 paragraph (A). The initial set of rules shall be
15 promulgated not later than 90 days after the
16 date of the enactment of this paragraph.

17 “(C) AUTHORIZATION OF APPROPRIA-
18 TIONS.—There is authorized to be appropriated
19 to the Administrator to carry out this para-
20 graph \$27,500,000 for fiscal year 2010 and
21 each fiscal year thereafter.

22 “(3) FUNDING LIMITATION.—For payment of
23 expenses incurred to administer the commercializa-
24 tion programs described in paragraphs (1) and (2),
25 the head of an agency may use not more than an

1 amount equal to 1 percent of the funds set aside for
2 the agency's Small Business Innovation Research
3 program. Such funds—

4 “(A) shall not be subject to the limitations
5 on the use of funds in subsection (f)(2); and

6 “(B) shall not be used for the purpose of
7 funding costs associated with salaries and ex-
8 penses of employees of the Federal Govern-
9 ment.”.

10 **TITLE III—RURAL**

11 **DEVELOPMENT AND OUTREACH**

12 **SEC. 301. OUTREACH AND SUPPORT ACTIVITIES.**

13 Section 9 of the Small Business Act (15 U.S.C. 638),
14 as amended, is further amended by inserting after sub-
15 section (r) the following:

16 “(s) OUTREACH AND SUPPORT ACTIVITIES.—

17 “(1) IN GENERAL.—Subject to the other provi-
18 sions of this subsection, the Administrator shall
19 make grants on a competitive basis to organizations,
20 to be used by the organizations to do one or both
21 of the following:

22 “(A) To conduct outreach efforts to in-
23 crease participation in the programs under this
24 section.

1 “(B) To provide application support and
2 entrepreneurial and business skills support to
3 prospective participants in the programs under
4 this section.

5 “(2) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Ad-
7 ministrator \$10,000,000 to carry out paragraph (1)
8 for each of fiscal years 2010 and 2011.

9 “(3) AMOUNT OF ASSISTANCE.—For each of
10 subparagraphs (A) and (B) of paragraph (1), the
11 amount of assistance provided to an organization
12 under that subparagraph in any fiscal year—

13 “(A) shall be equal to the total amount of
14 matching funds from non-Federal sources pro-
15 vided by the organization; and

16 “(B) shall not exceed \$250,000.

17 “(4) DIRECTION.—An organization receiving
18 funds under paragraph (1) shall, in using those
19 funds, direct its activities at one or both of the fol-
20 lowing:

21 “(A) Small business concerns located in
22 geographic areas that are underrepresented in
23 the programs under this section.

24 “(B) Small business concerns owned and
25 controlled by women, small business concerns

1 owned and controlled by service-disabled vet-
2 erans, and small business concerns owned and
3 controlled by minorities.

4 “(5) ADVISORY BOARD.—

5 “(A) ESTABLISHMENT.—Not later than 90
6 days after the date of the enactment of this
7 subsection, the Administrator shall establish an
8 advisory board for the activities carried out
9 under this subsection.

10 “(B) NON-APPLICABILITY OF FACA.—The
11 Federal Advisory Committee Act (5 U.S.C.
12 App.) shall not apply to the advisory board.

13 “(C) MEMBERS.—The members of the ad-
14 visory board shall include the following:

15 “(i) The Administrator (or the Ad-
16 ministrator’s designee).

17 “(ii) For each Federal agency re-
18 quired by this section to conduct an SBIR
19 program, the head of the agency (or the
20 designee of the head of the agency).

21 “(iii) Representatives of small busi-
22 ness concerns that are current or former
23 recipients of SBIR awards, or representa-
24 tives of organizations of such concerns.

1 “(iv) Representatives of service pro-
2 viders of SBIR outreach and assistance, or
3 representatives of organizations of such
4 service providers.

5 “(D) DUTIES.—The advisory board shall
6 have the following duties:

7 “(i) To develop guidelines for awards
8 under paragraph (1), including guidelines
9 relating to award sizes, proposal require-
10 ments, measures for monitoring awardee
11 performance, and measures for deter-
12 mining the overall value of the activities
13 carried out by the awardees.

14 “(ii) To identify opportunities for co-
15 ordinated outreach, technical assistance,
16 and commercialization activities among
17 Federal agencies, the recipients of the
18 awards under paragraph (1), and appli-
19 cants and recipients of SBIR awards, in-
20 cluding opportunities such as—

21 “(I) podcasting or webcasting for
22 conferences, training workshops, and
23 other events;

24 “(II) shared online resources to
25 match prospective applicants with the

1 network of paragraph (1) recipients;
2 and

3 “(III) venture capital conferences
4 tied to technologies and sectors that
5 cross agencies.

6 “(iii) To review and recommend revi-
7 sions to activities under paragraph (1).

8 “(iv) To submit to the Committee on
9 Small Business and Entrepreneurship of
10 the Senate and the Committee on Small
11 Business and the Committee on Science
12 and Technology of the House of Represent-
13 atives an annual report on the activities
14 carried out under paragraph (1) and the
15 effectiveness and impact of those activities.

16 “(6) SELECTION CRITERIA.—In awarding
17 grants under this subsection, the Administrator shall
18 use selection criteria developed by the advisory board
19 established under paragraph (5). The criteria shall
20 include—

21 “(A) criteria designed to give preference to
22 applicants who propose to carry out activities
23 that will reach either an underperforming geo-
24 graphic area or an underrepresented population

1 group (as measured by the number of SBIR ap-
2 plicants);

3 “(B) criteria designed to give preference to
4 applicants who propose to carry out activities
5 that complement, and are integrated into, the
6 existing public-private innovation support sys-
7 tem for the targeted region or population;

8 “(C) criteria designed to give preference to
9 applicants who propose to measure the effec-
10 tiveness of the proposed activities; and

11 “(D) criteria designed to give preference to
12 applicants who include a Small Business Devel-
13 opment Center program that is accredited for
14 its technology services.

15 “(7) PEER REVIEW.—In awarding grants under
16 this subsection, the Administrator shall use a peer
17 review process. Reviewers shall include—

18 “(A) SBIR program managers for agencies
19 required by this section to conduct SBIR pro-
20 grams; and

21 “(B) private individuals and organizations
22 that are knowledgeable about SBIR, the innova-
23 tion process, technology commercialization, and
24 State and regional technology-based economic
25 development programs.

1 “(8) PER-STATE LIMITATIONS.—

2 “(A) IN GENERAL.—To be eligible to re-
3 ceive a grant under this subsection, the appli-
4 cant must have the written endorsement of the
5 Governor of the State where the targeted re-
6 gions or populations are located (if the regions
7 or populations are located in more than one
8 State, the applicant must have the written en-
9 dorsement of the Governor of each such State).
10 Such an endorsement must indicate that the
11 Governor will ensure that the activities to be
12 carried out under the grant will be integrated
13 with the balance of the State’s portfolio of in-
14 vestments to help small business concerns com-
15 mercialize technology.

16 “(B) LIMITATION.—Each fiscal year, a
17 Governor may have in effect not more than one
18 written endorsement for a grant under para-
19 graph (1)(A), and not more than one written
20 endorsement for a grant under paragraph
21 (1)(B).

22 “(9) SPECIFIC REQUIREMENTS FOR AWARDS.—
23 In making awards under paragraph (1) the Adminis-
24 trator shall ensure that each award shall be for a pe-
25 riod of 2 fiscal years. The Administrator shall estab-

1 lish rules and performance goals for the disburse-
 2 ment of funds for the second fiscal year, and funds
 3 shall not be disbursed to a recipient for such a fiscal
 4 year until after the advisory board established under
 5 this subsection has determined that the recipient is
 6 in compliance with the rules and performance
 7 goals.”.

8 **SEC. 302. RURAL PREFERENCE.**

9 Section 9 of the Small Business Act (15 U.S.C. 638),
 10 as amended, is further amended by adding at the end the
 11 following:

12 “(cc) RURAL PREFERENCE.—In making awards
 13 under this section, Federal agencies shall give priority to
 14 applications so as to increase the number of SBIR and
 15 STTR award recipients from rural areas.”.

16 **SEC. 303. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**
 17 **LEASE CONTACT INFORMATION TO ECO-**
 18 **NOMIC DEVELOPMENT ORGANIZATIONS.**

19 Section 9 of the Small Business Act (15 U.S.C. 638),
 20 as amended, is further amended by adding at the end the
 21 following:

22 “(dd) CONSENT TO RELEASE CONTACT INFORMA-
 23 TION TO ORGANIZATIONS.—

24 “(1) ENABLING CONCERN TO GIVE CONSENT.—

25 Each Federal agency required by this section to con-

1 duct an SBIR program shall enable a small business
 2 concern that is an SBIR applicant to indicate to the
 3 agency whether the agency has its consent to—

4 “(A) identify the concern to appropriate
 5 local and State-level economic development or-
 6 ganizations as an SBIR applicant; and

7 “(B) release the concern’s contact informa-
 8 tion to such organizations.

9 “(2) RULES.—The Administrator shall estab-
 10 lish rules to implement this subsection. The rules
 11 shall include a requirement that the agency include
 12 in its SBIR application forms a provision through
 13 which the applicant can indicate consent for pur-
 14 poses of paragraph (1).”.

15 **SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR**
 16 **AWARDEES AND PRIME CONTRACTORS, VEN-**
 17 **TURE CAPITAL INVESTMENT COMPANIES,**
 18 **AND LARGER BUSINESSES.**

19 Section 9 of the Small Business Act (15 U.S.C. 638),
 20 as amended, is further amended by adding at the end the
 21 following:

22 “(ee) INCREASED PARTNERSHIPS.—

23 “(1) IN GENERAL.—Each agency required by
 24 this section to conduct an SBIR program shall es-
 25 tablish initiatives by which the agency encourages

1 partnerships between SBIR awardees and prime
2 contractors, venture capital investment companies,
3 business incubators, and larger businesses, for the
4 purpose of facilitating the progress of the SBIR
5 awardees to the third phase.

6 “(2) DEFINITION.—In this subsection, the term
7 ‘business incubator’ means an entity that provides
8 coordinated and specialized services to entrepre-
9 neurial businesses which meet selected criteria dur-
10 ing the businesses’ startup phases, including pro-
11 viding services such as shared office space and office
12 services, access to equipment, access to telecommuni-
13 cations and technology services, flexible leases, spe-
14 cialized management assistance, access to financing,
15 mentoring and training services, or other coordi-
16 nated business or technical support services designed
17 to provide business development assistance to entre-
18 preneurial businesses during these businesses’ start-
19 up phases.”.

1 **TITLE IV—SBIR AND STTR**
2 **ENHANCEMENT**

3 **SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SO-**
4 **LICITATIONS ANNUALLY AND SHORTENED**
5 **PERIOD FOR FINAL DECISIONS ON APPLICA-**
6 **TIONS.**

7 (a) INCREASED NUMBER OF RESEARCH TOPIC SO-
8 LICITATIONS ANNUALLY.—Section 9(g)(2) of the Small
9 Business Act (15 U.S.C. 638(g)(2)) is amended by insert-
10 ing before the semicolon at the end the following: “, but
11 not less often than twice per year”.

12 (b) SHORTENED PERIOD FOR FINAL DECISIONS ON
13 APPLICATIONS.—Section 9(g)(4) of the Small Business
14 Act (15 U.S.C. 638(g)(4)) is amended by inserting before
15 the semicolon at the end the following: “, but a final deci-
16 sion on each proposal shall be rendered not later than 90
17 days after the date on which the solicitation closes unless
18 the Administrator determines, on a case by case basis,
19 that a decision may be extended from 90 days to 180
20 days”.

1 **SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS**
2 **WITH THE POTENTIAL FOR COMMERCIALIZA-**
3 **TION.**

4 Section 9 of the Small Business Act (15 U.S.C. 638),
5 as amended, is further amended by adding at the end the
6 following:

7 “(ff) **MULTIPLE FIRST PHASE SBIR AWARDS RE-**
8 **PORT.**—The Administrator shall, on an annual basis, sub-
9 mit to the Committee on Small Business and the Com-
10 mittee on Science and Technology of the House of Rep-
11 resentatives and the Committee on Small Business and
12 Entrepreneurship of the Senate a list identifying each
13 small business concern that, for the period covered by the
14 preceding 5 fiscal years, received 15 or more first phase
15 SBIR awards and no second phase SBIR awards.”.

16 **SEC. 403. FEDERAL AGENCY ENGAGEMENT WITH SBIR**
17 **AWARDEES THAT HAVE BEEN AWARDED MUL-**
18 **TIPLE PHASE ONE AWARDS BUT HAVE NOT**
19 **BEEN AWARDED PHASE TWO AWARDS.**

20 Section 9 of the Small Business Act (15 U.S.C. 638),
21 as amended, is further amended by adding at the end the
22 following:

23 “(gg) **REQUIREMENTS RELATING TO FEDERAL**
24 **AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE**
25 **SBIR AWARDEES.**—Each Federal agency required by this
26 section to conduct an SBIR program shall engage with

1 SBIR awardees that have been awarded multiple first
2 phase SBIR awards but have not been awarded any sec-
3 ond phase SBIR awards and shall develop performance
4 measures with respect to awardee progression in the SBIR
5 program.”.

6 **SEC. 404. FUNDING FOR ADMINISTRATIVE, OVERSIGHT,**
7 **AND CONTRACT PROCESSING COSTS.**

8 Section 9 of the Small Business Act (15 U.S.C. 638),
9 as amended, is further amended by adding at the end the
10 following:

11 “(hh) ASSISTANCE FOR ADMINISTRATIVE, OVER-
12 SIGHT, AND CONTRACT PROCESSING COSTS.—

13 “(1) IN GENERAL.—From amounts made avail-
14 able to carry out this subsection, the Administrator
15 may, on petition by Federal agencies required by
16 this section to conduct an SBIR program, transfer
17 funds to such agencies to assist with the administra-
18 tive, oversight, and contract processing costs relating
19 to such program.

20 “(2) PETITIONS.—The Administrator shall es-
21 tablish rules for making transfers under paragraph
22 (1). The initial set of rules shall be promulgated not
23 later than 180 days after the date of the enactment
24 of this subsection.

1 “(3) LIMIT ON TRANSFER.—A Federal agency
2 may not receive under this subsection in a fiscal
3 year an amount greater than 3 percent of the SBIR
4 budget of such agency for such fiscal year.

5 “(4) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Ad-
7 ministrator to carry out this subsection \$27,500,000
8 for each of fiscal years 2010 and 2011.”.

9 **SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FED-**
10 **ERAL AGENCIES CALCULATE EXTRAMURAL**
11 **RESEARCH BUDGETS.**

12 The Comptroller General of the United States shall
13 carry out a detailed audit of how Federal agencies cal-
14 culate extramural research budgets for purposes of calcu-
15 lating the size of the agencies’ Small Business Innovation
16 Research Program and Small Business Technology Trans-
17 fer Program budgets. Not later than 1 year after the date
18 of the enactment of this Act, the Comptroller General shall
19 submit to the Committee on Small Business and the Com-
20 mittee on Science and Technology of the House of Rep-
21 resentatives and the Committee on Small Business and
22 Entrepreneurship of the Senate a report on the results
23 of the audit.

1 **SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM**
2 **EVALUATION.**

3 Section 9(k) of the Small Business Act (15 U.S.C.
4 638(k)) is amended—

5 (1) in paragraph (2)(A)—

6 (A) by striking “and” at the end of clause

7 (ii);

8 (B) by inserting “and” at the end of clause

9 (iii); and

10 (C) by adding at the end the following new
11 clause:

12 “(iv) information on the ownership
13 structure of award recipients, both at the
14 time of receipt of the award and upon com-
15 pletion of the award period;”;

16 (2) by amending paragraph (3) to read as fol-
17 lows:

18 “(3) UPDATING INFORMATION FOR DATA-
19 BASE.—

20 “(A) IN GENERAL.—A Federal agency
21 shall not make a Phase I or Phase II payment
22 to a small business concern under this section
23 unless the small business concern has provided
24 all information required under this subsection
25 and available at the time with respect to the
26 award under which the payment is made, and

1 with respect to any other award under this sec-
2 tion previously received by the small business
3 concern or a predecessor in interest to the small
4 business concern.

5 “(B) APPORTIONMENT.—In complying
6 with this paragraph, a small business concern
7 may apportion sales or additional investment
8 information relating to more than one second
9 phase award among those awards, if it notes
10 the apportionment for each award.

11 “(C) ANNUAL UPDATES UPON TERMI-
12 NATION.—A small business concern receiving an
13 award under this section shall—

14 “(i) in the case of a second phase
15 award, update information in the data-
16 bases required under paragraphs (2) and
17 (6) concerning that award at the termi-
18 nation of the award period;

19 “(ii) in the case of award recipients
20 not described in clause (iii), be requested
21 to voluntarily update such information an-
22 nually thereafter for a period of 5 years;
23 and

24 “(iii) in the case of a small business
25 concern applying for a subsequent first

1 phase or second phase award, be required
2 to update such information annually there-
3 after for a period of 5 years.”; and

4 (3) by adding at the end the following new
5 paragraph:

6 “(6) AGENCY PROGRAM EVALUATION DATA-
7 BASES.—Each Federal agency required to establish
8 an SBIR or STTR program under this section shall
9 develop and maintain, for the purpose of evaluating
10 such programs, a database containing information
11 required to be contained in the database under para-
12 graph (2). Each such database shall be designed to
13 be accessible to other agencies that are required to
14 maintain a database under this paragraph. Each
15 such database shall be developed and operated in a
16 manner to ensure that each such database is rel-
17 evant to and contributes to the agency’s oversight
18 and evaluation of the SBIR and STTR programs.
19 Paragraphs (4) and (5) apply to each database
20 under this paragraph.”.

21 **SEC. 407. AGENCY DATABASES TO SUPPORT TECHNOLOGY**
22 **UTILIZATION.**

23 Section 9(k) of the Small Business Act (15 U.S.C.
24 638(k)), as amended, is further amended by adding at the
25 end the following new paragraph:

1 “(7) AGENCY DATABASES TO SUPPORT TECH-
2 NOLOGY UTILIZATION.—Each Federal agency with
3 an SBIR or STTR program shall create and main-
4 tain a technology utilization database, which shall be
5 available to the public and shall contain data sup-
6 plied by the award recipients specifically to help
7 them attract customers for the products and services
8 generated under the SBIR or STTR project, and to
9 attract additional investors and business partners.
10 Each database created under this paragraph shall
11 include information on the other databases created
12 under this paragraph by other Federal agencies.
13 Participation in a database under this paragraph
14 shall be voluntary, except that such participation is
15 required of all award recipients who received supple-
16 mental payments from SBIR and STTR program
17 funds above their initial Phase II award. Each data-
18 base created under this paragraph shall be developed
19 and operated in a manner to ensure that each such
20 database is relevant to and contributes to the agen-
21 cy’s oversight and evaluation of the SBIR and
22 STTR programs.”.

23 **SEC. 408. INTERAGENCY POLICY COMMITTEE.**

24 (a) ESTABLISHMENT.—The Director of the Office of
25 Science and Technology Policy shall establish an Inter-

1 agency SBIR/STTR Policy Committee comprised of one
2 representative from each Federal agency with an SBIR
3 program.

4 (b) COCHAIRS.—The Director of the Office of Science
5 and Technology Policy and the Director of the National
6 Institute of Standards and Technology shall jointly chair
7 the Interagency SBIR/STTR Policy Committee.

8 (c) DUTIES.—The Interagency SBIR/STTR Policy
9 Committee shall review the following issues and make pol-
10 icy recommendations on ways to improve program effec-
11 tiveness and efficiency:

12 (1) The public and government databases de-
13 scribed in section 9(k) (1) and (2) of the Small
14 Business Act (15 U.S.C. 638(k) (1) and (2)).

15 (2) Federal agency flexibility in establishing
16 Phase I and II award sizes, and appropriate criteria
17 to exercise such flexibility.

18 (3) Commercialization assistance best practices
19 in Federal agencies with significant potential to be
20 employed by other agencies, and the appropriate
21 steps to achieve that leverage, as well as proposals
22 for new initiatives to address funding gaps business
23 concerns face after Phase II but before commer-
24 cialization.

1 (d) REPORTS.—The Interagency SBIR/STTR Policy
2 Committee shall transmit to the Committee on Science
3 and Technology and the Committee on Small Business of
4 the House of Representatives, and to the Committee on
5 Small Business and Entrepreneurship of the Senate—

6 (1) a report on its review and recommendations
7 under subsection (c)(1) not later than 1 year after
8 the date of enactment of this Act;

9 (2) a report on its review and recommendations
10 under subsection (c)(2) not later than 18 months
11 after the date of enactment of this Act; and

12 (3) a report on its review and recommendations
13 under subsection (c)(3) not later than 2 years after
14 the date of enactment of this Act.

15 **SEC. 409. NATIONAL RESEARCH COUNCIL SBIR STUDY.**

16 Section 108(d) of the Small Business Reauthoriza-
17 tion Act of 2000, enacted into law by reference under sec-
18 tion 1(a)(9) of the Consolidated Appropriations Act, 2001
19 (Public Law 106–554), is amended—

20 (1) by striking “of the Senate” and all that fol-
21 lows through “not later than 3” and inserting “of
22 the Senate, not later than 3”; and

23 (2) by striking “; and” and all that follows
24 through “update of such report”.

1 **SEC. 410. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**
2 **TWO AWARDS FOR PROMISING PHASE ONE**
3 **RESEARCH.**

4 Section 9 of the Small Business Act (15 U.S.C. 638),
5 as amended, is further amended by adding at the end the
6 following:

7 “(ii) AUTHORITY TO ‘FAST-TRACK’ PHASE TWO
8 AWARDS FOR PROMISING PHASE ONE RESEARCH.—To
9 address the delay between an award for the first phase
10 of an SBIR program and the application for and extension
11 of an award for the second phase of such program, each
12 Federal agency with an SBIR program may develop ‘fast-
13 track’ programs to eliminate such delay by issuing second
14 phase SBIR awards as soon as practicable, including in
15 appropriate cases simultaneously with the issuance of the
16 first phase SBIR award. The Administrator shall encour-
17 age the development of such ‘fast-track’ programs.”.

18 **SEC. 411. INCREASED SBIR AND STTR AWARD LEVELS.**

19 (a) SBIR AWARD LEVEL AND ANNUAL ADJUST-
20 MENTS.—Section 9(j) of the Small Business Act (15
21 U.S.C. 638(j)) is amended by adding at the end the fol-
22 lowing:

23 “(4) FURTHER ADDITIONAL MODIFICATIONS.—Not
24 later than 180 days after the date of enactment of this
25 paragraph and notwithstanding paragraph (2)(D), the Ad-
26 ministrator shall modify the policy directives issued pursu-

1 ant to this subsection to provide for an increase to
2 \$250,000 in the amount of funds which an agency may
3 award in the first phase of an SBIR program, and to
4 \$2,000,000 in the second phase of an SBIR program, and
5 a mandatory annual adjustment of such amounts to reflect
6 economic adjustments and programmatic considerations.”.

7 (b) STTR AWARD LEVEL AND ANNUAL ADJUST-
8 MENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act
9 (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

10 (1) by striking “\$100,000” and “\$750,000”
11 and inserting “\$250,000” and “\$2,000,000”, re-
12 spectively; and

13 (2) by striking “greater or lesser amounts” and
14 inserting “with a mandatory annual adjustment of
15 such amounts to reflect economic adjustments and
16 programmatic considerations, and with lesser
17 amounts”.

18 (c) LIMITATION ON CERTAIN AWARDS.—Section 9 of
19 the Small Business Act (15 U.S.C. 638), as amended, is
20 further amended by adding at the end the following:

21 “(jj) LIMITATION ON PHASE I AND II AWARDS.—No
22 Federal agency shall issue an award under the SBIR pro-
23 gram or the STTR program if the size of the award ex-
24 ceeds the amounts established under subsections (j)(4)
25 and (p)(2)(B)(ix).”.

1 **SEC. 412. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**
2 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**
3 **FUNDED PROJECTS.**

4 Section 9 of the Small Business Act (15 U.S.C. 638),
5 as amended, is further amended by adding at the end the
6 following:

7 “(kk) REQUIREMENTS RELATING TO ADDITIONAL
8 SECOND PHASE SBIR AWARDS.—

9 “(1) IN GENERAL.—A small business concern
10 that receives a second phase SBIR award for a
11 project remains eligible to receive additional second
12 phase SBIR awards for such project.

13 “(2) TECHNICAL OR WEAPONS SYSTEMS.—
14 Agencies are expressly authorized to provide addi-
15 tional second phase SBIR awards for testing and
16 evaluation assistance for the insertion of SBIR tech-
17 nologies into technical or weapons systems.”.

18 **SEC. 413. FIRST PHASE REQUIRED.**

19 Section 9 of the Small Business Act (15 U.S.C. 638),
20 as amended, is further amended by adding at the end the
21 following:

22 “(ll) FIRST PHASE REQUIRED.—Under this section,
23 a Federal agency shall provide to a small business concern
24 an award for the second phase of an SBIR program with
25 respect to a project only if such agency finds that the
26 small business concern has been provided an award for

1 the first phase of an SBIR program with respect to such
2 project or has completed the determinations described in
3 subsection (e)(4)(A) with respect to such project despite
4 not having been provided an award for the first phase.”.

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