

**AMENDMENT TO H.R. 2965, AS REPORTED
OFFERED BY MR. GINGREY OF GEORGIA**

Page 4, beginning on line 2, strike “venture capital operating company involvement” and insert “majority-venture investments in SBIR firms”.

Strike line 12 on page 4 and all that follows through line 18 on page 7 and insert the following:

1 **SEC. 102. MAJORITY-VENTURE INVESTMENTS IN SBIR**
2 **FIRMS.**

3 (a) **IN GENERAL.**—Section 9 of the Small Business
4 Act (15 U.S.C. 638) is amended by adding at the end the
5 following:

6 “(aa) **MAJORITY-VENTURE INVESTMENTS IN SBIR**
7 **FIRMS.**—

8 “(1) **AUTHORITY AND DETERMINATION.**—

9 “(A) **IN GENERAL.**—Upon a written deter-
10 mination provided not later than 30 days in ad-
11 vance to the Administrator and to the Com-
12 mittee on Small Business and Entrepreneurship
13 of the Senate and the Committee on Small
14 Business of the House of Representatives—

1 “(i) the head of the SBIR program of
2 the National Institutes of Health may
3 award not more than 18 percent of the
4 SBIR funds of the National Institutes of
5 Health allocated in accordance with this
6 Act, in the first full fiscal year beginning
7 after the date of enactment of this sub-
8 section, and each fiscal year thereafter, to
9 small business concerns that are owned in
10 majority part by venture capital companies
11 and that satisfy the qualification require-
12 ments under paragraph (2) through com-
13 petitive, merit-based procedures that are
14 open to all eligible small business concerns;
15 and

16 “(ii) the head of any other Federal
17 agency participating in the SBIR program
18 may award not more than 8 percent of the
19 SBIR funds of the Federal agency allo-
20 cated in accordance with this Act, in the
21 first full fiscal year beginning after the
22 date of enactment of this subsection, and
23 each fiscal year thereafter, to small busi-
24 ness concerns that are majority owned by
25 venture capital companies and that satisfy

1 the qualification requirements under para-
2 graph (2) through competitive, merit-based
3 procedures that are open to all eligible
4 small business concerns.

5 “(B) DETERMINATION.—A written deter-
6 mination made under subparagraph (A) shall
7 explain how the use of the authority under that
8 subparagraph will induce additional venture
9 capital funding of small business innovations,
10 substantially contribute to the mission of the
11 funding Federal agency, demonstrate a need for
12 public research, and otherwise fulfill the capital
13 needs of small business concerns for additional
14 financing for the SBIR project.

15 “(2) QUALIFICATION REQUIREMENTS.—The
16 Administrator shall establish requirements relating
17 to the affiliation by small business concerns with
18 venture capital companies, which may not exclude a
19 United States small business concern from participa-
20 tion in the program under paragraph (1) on the
21 basis that the small business concern is owned in
22 majority part by, or controlled by, more than 1
23 United States venture capital company, so long as
24 no single venture capital company owns more than
25 49 percent of the small business concern.

1 “(3) REGISTRATION.—A small business concern
2 that is majority owned and controlled by multiple
3 venture capital companies and qualified for partici-
4 pation in the program authorized under paragraph
5 (1) shall—

6 “(A) register with the Administrator on
7 the date that the small business concern sub-
8 mits an application for an award under the
9 SBIR program; and

10 “(B) indicate whether the small business
11 concern is registered under subparagraph (A) in
12 any SBIR proposal.

13 “(4) COMPLIANCE.—A Federal agency de-
14 scribed in paragraph (1) shall collect data regarding
15 the number and dollar amounts of phase I, phase II,
16 and all other categories of awards under the SBIR
17 program, and the Administrator shall report on the
18 data and the compliance of each such Federal agen-
19 cy with the maximum amounts under paragraph (1)
20 as part of the annual report by the Administration
21 under subsection (b)(7).

22 “(5) ENFORCEMENT.—If a Federal agency
23 awards more than the amount authorized under
24 paragraph (1) for a purpose described in paragraph
25 (1), the amount awarded in excess of the amount

1 authorized under paragraph (1) shall be transferred
2 to the funds for general SBIR programs from the
3 non-SBIR research and development funds of the
4 Federal agency within 60 days of the date on which
5 the Federal agency awarded more than the amount
6 authorized under paragraph (1) for a purpose de-
7 scribed in paragraph (1).”.

8 (b) DEFINITION.—Section 3 of the Small Business
9 Act (15 U.S.C. 632) is amended by adding at the end the
10 following:

11 “(t) VENTURE CAPITAL COMPANY.—In this Act, the
12 term ‘venture capital company’ means an entity described
13 in clause (i), (v), or (vi) of section 121.103(b)(5) of title
14 13, Code of Federal Regulations (or any successor there-
15 to).”.

16 (c) ASSISTANCE FOR DETERMINING AFFILIATES.—
17 Not later than 30 days after the date of enactment of this
18 Act, the Administrator shall post on the website of the
19 Administration (with a direct link displayed on the home-
20 page of the website of the Administration or the SBIR
21 website of the Administration)—

22 (1) a clear explanation of the SBIR affiliation
23 rules under part 121 of title 13, Code of Federal
24 Regulations; and

1 (2) contact information for officers or employ-
2 ees of the Administration who—

3 (A) upon request, shall review an issue re-
4 lating to the rules described in paragraph (1);
5 and

6 (B) shall respond to a request under sub-
7 paragraph (A) not later than 20 business days
8 after the date on which the request is received.

