

Union Calendar No. 102

111TH CONGRESS
1ST SESSION

H. R. 2965

[Report No. 111–190, Parts I and II]

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

JUNE 26, 2009

Reported from the Committee on Small Business with an amendment

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

JUNE 26, 2009

Referral to the Committee on Science and Technology extended for a period ending not later than July 7, 2009

JULY 7, 2009

Additional sponsors: Mr. LUJÁN and Mrs. BIGGERT

JULY 7, 2009

Reported from the Committee on Science and Technology with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on June 19, 2009]

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 “En-*
 5 *hancing Small Business Research and Innovation Act of*
 6 *2009”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *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 re-
 search topics as deserving “special consideration” as SBIR re-
 search 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 commer-
 cialization.*

*Sec. 403. Federal agency engagement with SBIR awardees that have been award-
 ed 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.*
- Sec. 414. *Involvement of Chief Counsel for Advocacy.*

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 in-
 8 serting “2011”.

9 (b) *STTR.*—Section 9(n)(1)(A) of the Small Business
 10 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 BUSINESSES**
 13 **WITH SUBSTANTIAL INVESTMENT FROM VEN-**
 14 **TURE CAPITAL OPERATING COMPANIES ARE**
 15 **ABLE TO PARTICIPATE IN THE SBIR AND**
 16 **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:

1 “(aa) *VENTURE CAPITAL OPERATING COMPANIES.*—
2 *Effective only for the SBIR and STTR programs the fol-*
3 *lowing shall apply:*

4 “(1) *A business concern that has more than 500*
5 *employees shall not qualify as a small business con-*
6 *cern.*

7 “(2) *In determining whether a small business*
8 *concern is independently owned and operated under*
9 *section 3(a)(1) or meets the small business size stand-*
10 *ards instituted under section 3(a)(2), the Adminis-*
11 *trator shall not consider a business concern to be af-*
12 *filiated with a venture capital operating company (or*
13 *with any other business that the venture capital oper-*
14 *ating company has financed) if—*

15 “(A) *the venture capital operating company*
16 *does not own 50 percent or more of the business*
17 *concern; and*

18 “(B) *employees of the venture capital oper-*
19 *ating company do not constitute a majority of*
20 *the board of directors of the business concern.*

21 “(3) *A business concern shall be deemed to be*
22 *‘independently owned and operated’ if—*

23 “(A) *it is owned in majority part by one or*
24 *more natural persons or venture capital oper-*
25 *ating companies;*

1 “(B) there is no single venture capital oper-
2 ating company that owns 50 percent or more of
3 the business concern; and

4 “(C) there is no single venture capital oper-
5 ating company the employees of which constitute
6 a majority of the board of directors of the busi-
7 ness concern.

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

16 “(A) not more than two VCOCs under large
17 business control have an ownership interest in
18 the small business concern; and

19 “(B) the VCOCs under large business con-
20 trol do not collectively own more than 20 percent
21 of the small business concern.

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

24 “(A) that—

1 “(i) is a Venture Capital Operating
2 Company, as that term is defined in regula-
3 tions promulgated by the Secretary of
4 Labor; or

5 “(ii) is an entity that—

6 “(I) is registered under the Invest-
7 ment Company Act of 1940 (15 U.S.C.
8 80a–51 et seq.); or

9 “(II) is an investment company,
10 as defined in section 3(c)(1) of such
11 Act (15 U.S.C. 80a–3(c)(1)), which is
12 not registered under such Act because
13 it is beneficially owned by less than
14 100 persons; and

15 “(B) that is itself organized or incorporated
16 and domiciled in the United States, or is con-
17 trolled by a business concern that is incorporated
18 and domiciled in the United States.”.

19 **TITLE II—COMMERCIALIZATION**
20 **ACTIVITIES AND RESEARCH**
21 **TOPICS DESERVING SPECIAL**
22 **CONSIDERATION**

23 **SEC. 201. FOCUS ON COMMERCIALIZATION.**

24 Section 9(a) of the Small Business Act (15 U.S.C.
25 638(a)) is amended by adding at the end the following: “It

1 *is further the policy of Congress that the programs estab-*
2 *lished in this section should focus on promoting research*
3 *and development of projects governed by commercial busi-*
4 *ness plans, which have significant potential to produce*
5 *products or services for the marketplace or for acquisition*
6 *by Federal agencies.”.*

7 **SEC. 202. INCLUSION OF ENERGY-RELATED RESEARCH TOP-**
8 **ICS AND RARE DISEASE-RELATED RESEARCH**
9 **TOPICS AS DESERVING “SPECIAL CONSIDER-**
10 **ATION” AS SBIR RESEARCH TOPICS.**

11 *Section 9(g)(3) of the Small Business Act (15 U.S.C.*
12 *638(g)(3)) is amended—*

13 *(1) in the matter preceding subparagraph (A) by*
14 *inserting after “critical technologies” the following:*
15 *“or pressing research priorities”;*

16 *(2) in subparagraph (A) by striking “or” at the*
17 *end; and*

18 *(3) by adding at the end the following:*

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

1 “(D) the National Institutes of Health, in
2 the annual report on the rare diseases research
3 activities of the National Institutes of Health for
4 fiscal year 2005, and in subsequent reports
5 issued by the National Institutes of Health on
6 rare diseases research activities; or

7 “(E) the National Academy of Sciences, in
8 the final report issued by the ‘Transit Research
9 and Development: Federal Role in the National
10 Program’ project and the ‘Transportation Re-
11 search, Development and Technology Strategic
12 Plan (2006–2010)’ issued by the United States
13 Department of Transportation Research and In-
14 novative Technology Administration, and in sub-
15 sequent reports issued by the National Academy
16 of Sciences and United States Department of
17 Transportation on transportation and infra-
18 structure;”.

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

20 (a) *SBIR*.—Section 9(g)(3) of the Small Business Act
21 (15 U.S.C. 638(g)(3)), as amended, is further amended—

22 (1) in subparagraph (D) by striking “or” at the
23 end;

24 (2) in subparagraph (E) by adding “or” at the
25 end; and

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

2 “(F) the national nanotechnology strategic
3 plan required under section 2(c)(4) of the 21st
4 Century Nanotechnology Research and Develop-
5 ment Act (15 U.S.C. 7501(c)(4)) and in subse-
6 quent reports issued by the National Science and
7 Technology Council Committee on Technology,
8 focusing on areas of nanotechnology identified in
9 such plan;”.

10 (b) *STTR*.—Section 9(o)(3) of the Small Business Act
11 (15 U.S.C. 638(o)(3)) is amended—

12 (1) in subparagraph (A) by striking “or” at the
13 end;

14 (2) in subparagraph (B) by adding “or” at the
15 end; and

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

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

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

2 *Section 9(e) of the Small Business Act (15 U.S.C.*
3 *638(e)) is amended—*

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

10 *(2) in paragraph (8) by striking “and” at the*
11 *end;*

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

14 *(4) by adding at the end the following:*

15 *“(10) the term ‘commercialization’ means the*
16 *process of developing marketable products or services*
17 *and producing and delivering products or services for*
18 *sale (whether by the originating party or by others)*
19 *to government or commercial markets.”.*

20 **SEC. 205. AGENCY RESEARCH GOALS.**

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

24 *“(h) AGENCY RESEARCH GOALS.—*

25 *“(1) IN GENERAL.—In addition to the require-*
26 *ments of subsection (f), each Federal agency that is*

1 *required by this section to have an SBIR program*
2 *and that awards annually \$5,000,000,000 or more in*
3 *procurement contracts shall, effective for fiscal year*
4 *2010 and each fiscal year thereafter, establish annual*
5 *goals for commercialization of projects funded by*
6 *SBIR awards.*

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

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

13 “(B) *The percentage of SBIR projects that*
14 *are successfully integrated into a program of*
15 *record.*

16 “(C) *The amount of Federal dollars received*
17 *by SBIR projects through Federal contracts, not*
18 *including dollars received through the SBIR pro-*
19 *gram.*

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

1 *Committee on Small Business and Entrepreneurship*
2 *of the Senate—*

3 *“(A) not later than 60 days after the begin-*
4 *ning of the fiscal year, the goals; and*

5 *“(B) not later than 90 days after the end of*
6 *the fiscal year, data on the extent to which the*
7 *goals were met and a description of the method-*
8 *ology used to collect such data.”.*

9 **SEC. 206. COMMERCIALIZATION PROGRAMS.**

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

13 *“(bb) COMMERCIALIZATION PROGRAMS.—*

14 *“(1) IN GENERAL.—Each agency required by*
15 *this section to conduct an SBIR program shall estab-*
16 *lish a commercialization program that supports the*
17 *progress of SBIR awardees to the third phase. The*
18 *commercialization program may include activities*
19 *such as partnership databases, partnership con-*
20 *ferences, multiple second phases, mentoring between*
21 *prime contractors and SBIR awardees, multiple sec-*
22 *ond phases with matching private investment require-*
23 *ments, jumbo awards, SBIR helpdesks, and transition*
24 *assistance programs. The agency shall include in its*
25 *annual report an analysis of the various activities*

1 *considered for inclusion in the commercialization pro-*
2 *gram and a statement of the reasons why each activ-*
3 *ity considered was included or not included, as the*
4 *case may be.*

5 “(2) *FUNDING FOR COMMERCIALIZATION PRO-*
6 *GRAMS.—*

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

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

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

23 “(3) *FUNDING LIMITATION.—For payment of ex-*
24 *penses incurred to administer the commercialization*
25 *programs described in paragraphs (1) and (2), the*

1 *head of an agency may use not more than an amount*
 2 *equal to 1 percent of the funds set aside for the agen-*
 3 *cy’s Small Business Innovation Research program.*
 4 *Such funds—*

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

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

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 make*
 19 *grants on a competitive basis to organizations, to be*
 20 *used by the organizations to do one or both of the fol-*
 21 *lowing:*

22 ***“(A) To conduct outreach efforts to increase***
 23 *participation in the programs under this section.*

24 ***“(B) To provide application support and***
 25 *entrepreneurial and business skills support to*

1 *prospective participants in the programs under*
2 *this section.*

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

7 “(3) *AMOUNT OF ASSISTANCE.—For each of sub-*
8 *paragraphs (A) and (B) of paragraph (1), the*
9 *amount of assistance provided to an organization*
10 *under that subparagraph in any fiscal year—*

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

14 “(B) *shall not exceed \$250,000.*

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

19 “(A) *Small business concerns located in geo-*
20 *graphic areas that are underrepresented in the*
21 *programs under this section.*

22 “(B) *Small business concerns owned and*
23 *controlled by women, small business concerns*
24 *owned and controlled by service-disabled vet-*

1 *erans, and small business concerns owned and*
2 *controlled by minorities.*

3 “(5) *ADVISORY BOARD.*—

4 “(A) *ESTABLISHMENT.*—*Not later than 90*
5 *days after the date of the enactment of this sub-*
6 *section, the Administrator shall establish an ad-*
7 *visory board for the activities carried out under*
8 *this subsection.*

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

12 “(C) *MEMBERS.*—*The members of the advi-*
13 *sory board shall include the following:*

14 “(i) *The Administrator (or the Admin-*
15 *istrator’s designee).*

16 “(ii) *For each Federal agency required*
17 *by this section to conduct an SBIR pro-*
18 *gram, the head of the agency (or the des-*
19 *ignee of the head of the agency).*

20 “(iii) *Representatives of small business*
21 *concerns that are current or former recipi-*
22 *ents of SBIR awards, or representatives of*
23 *organizations of such concerns.*

24 “(iv) *Representatives of service pro-*
25 *viders of SBIR outreach and assistance, or*

1 *representatives of organizations of such*
2 *service providers.*

3 “(D) *DUTIES.—The advisory board shall*
4 *have the following duties:*

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

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

19 “(I) *podcasting or webcasting for*
20 *conferences, training workshops, and*
21 *other events;*

22 “(II) *shared online resources to*
23 *match prospective applicants with the*
24 *network of paragraph (1) recipients;*
25 *and*

1 “(III) *venture capital conferences*
2 *tied to technologies and sectors that*
3 *cross agencies.*

4 “(iii) *To review and recommend revi-*
5 *sions to activities under paragraph (1).*

6 “(iv) *To submit to the Committee on*
7 *Small Business and Entrepreneurship of*
8 *the Senate and the Committee on Small*
9 *Business and the Committee on Science and*
10 *Technology of the House of Representatives*
11 *an annual report on the activities carried*
12 *out under paragraph (1) and the effective-*
13 *ness and impact of those activities.*

14 “(6) *SELECTION CRITERIA.—In awarding grants*
15 *under this subsection, the Administrator shall use se-*
16 *lection criteria developed by the advisory board estab-*
17 *lished under paragraph (5). The criteria shall in-*
18 *clude—*

19 “(A) *criteria designed to give preference to*
20 *applicants who propose to carry out activities*
21 *that will reach either an underperforming geo-*
22 *graphic area or an underrepresented population*
23 *group (as measured by the number of SBIR ap-*
24 *plicants);*

1 “(B) criteria designed to give preference to
2 applicants who propose to carry out activities
3 that complement, and are integrated into, the ex-
4 isting public-private innovation support system
5 for the targeted region or population;

6 “(C) criteria designed to give preference to
7 applicants who propose to measure the effective-
8 ness of the proposed activities; and

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

13 “(7) PEER REVIEW.—In awarding grants under
14 this subsection, the Administrator shall use a peer re-
15 view process. Reviewers shall include—

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

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

24 “(8) PER-STATE LIMITATIONS.—

1 “(A) *IN GENERAL.*—*To be eligible to receive*
2 *a grant under this subsection, the applicant*
3 *must have the written endorsement of the Gov-*
4 *ernor of the State where the targeted regions or*
5 *populations are located (if the regions or popu-*
6 *lations are located in more than one State, the*
7 *applicant must have the written endorsement of*
8 *the Governor of each such State). Such an en-*
9 *endorsement must indicate that the Governor will*
10 *ensure that the activities to be carried out under*
11 *the grant will be integrated with the balance of*
12 *the State’s portfolio of investments to help small*
13 *business concerns commercialize technology.*

14 “(B) *LIMITATION.*—*Each fiscal year, a Gov-*
15 *ernor may have in effect not more than one writ-*
16 *ten endorsement for a grant under paragraph*
17 *(1)(A), and not more than one written endorse-*
18 *ment for a grant under paragraph (1)(B).*

19 “(9) *SPECIFIC REQUIREMENTS FOR AWARDS.*—
20 *In making awards under paragraph (1) the Adminis-*
21 *trator shall ensure that each award shall be for a pe-*
22 *riod of 2 fiscal years. The Administrator shall estab-*
23 *lish rules and performance goals for the disbursement*
24 *of funds for the second fiscal year, and funds shall not*
25 *be disbursed to a recipient for such a fiscal year until*

1 *after the advisory board established under this sub-*
 2 *section has determined that the recipient is in compli-*
 3 *ance with the rules and performance goals.”.*

4 **SEC. 302. RURAL PREFERENCE.**

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

8 “(cc) *RURAL PREFERENCE.*—*In making awards under*
 9 *this section, Federal agencies shall give priority to applica-*
 10 *tions so as to increase the number of SBIR and STTR*
 11 *award recipients from rural areas.”.*

12 **SEC. 303. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**
 13 **LEASE CONTACT INFORMATION TO ECO-**
 14 **NOMIC DEVELOPMENT ORGANIZATIONS.**

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

18 “(dd) *CONSENT TO RELEASE CONTACT INFORMATION*
 19 *TO ORGANIZATIONS.*—

20 “(1) *ENABLING CONCERN TO GIVE CONSENT.*—
 21 *Each Federal agency required by this section to con-*
 22 *duct an SBIR program shall enable a small business*
 23 *concern that is an SBIR applicant to indicate to the*
 24 *agency whether the agency has its consent to—*

1 “(A) identify the concern to appropriate
2 local and State-level economic development orga-
3 nizations as an SBIR applicant; and

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

6 “(2) *RULES.*—The Administrator shall establish
7 rules to implement this subsection. The rules shall in-
8 clude a requirement that the agency include in its
9 SBIR application forms a provision through which
10 the applicant can indicate consent for purposes of
11 paragraph (1).”.

12 **SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR**
13 **AWARDEES AND PRIME CONTRACTORS, VEN-**
14 **TURE CAPITAL INVESTMENT COMPANIES,**
15 **AND LARGER BUSINESSES.**

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

19 “(ee) *INCREASED PARTNERSHIPS.*—

20 “(1) *IN GENERAL.*—Each agency required by
21 this section to conduct an SBIR program shall estab-
22 lish initiatives by which the agency encourages part-
23 nerships between SBIR awardees and prime contrac-
24 tors, venture capital investment companies, business
25 incubators, and larger businesses, for the purpose of

1 *facilitating the progress of the SBIR awardees to the*
 2 *third phase.*

3 “(2) *DEFINITION.*—*In this subsection, the term*
 4 *‘business incubator’ means an entity that provides co-*
 5 *ordinated and specialized services to entrepreneurial*
 6 *businesses which meet selected criteria during the*
 7 *businesses’ startup phases, including providing serv-*
 8 *ices such as shared office space and office services, ac-*
 9 *cess to equipment, access to telecommunications and*
 10 *technology services, flexible leases, specialized manage-*
 11 *ment assistance, access to financing, mentoring and*
 12 *training services, or other coordinated business or*
 13 *technical support services designed to provide business*
 14 *development assistance to entrepreneurial businesses*
 15 *during these businesses’ startup phases.’”.*

16 ***TITLE IV—SBIR AND STTR***
 17 ***ENHANCEMENT***

18 ***SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SO-***
 19 ***LICITATIONS ANNUALLY AND SHORTENED***
 20 ***PERIOD FOR FINAL DECISIONS ON APPLICA-***
 21 ***TIONS.***

22 *(a) INCREASED NUMBER OF RESEARCH TOPIC SOLICI-*
 23 *TATIONS ANNUALLY.*—*Section 9(g)(2) of the Small Business*
 24 *Act (15 U.S.C. 638(g)(2)) is amended by inserting before*

1 *the semicolon at the end the following: “, but not less often*
2 *than twice per year”.*

3 (b) *SHORTENED PERIOD FOR FINAL DECISIONS ON*
4 *APPLICATIONS.—Section 9(g)(4) of the Small Business Act*
5 *(15 U.S.C. 638(g)(4)) is amended by inserting before the*
6 *semicolon at the end the following: “, but a final decision*
7 *on each proposal shall be rendered not later than 90 days*
8 *after the date on which the solicitation closes unless the Ad-*
9 *ministrator determines, on a case by case basis, that a deci-*
10 *sion may be extended from 90 days to 180 days”.*

11 **SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS**
12 **WITH THE POTENTIAL FOR COMMERCIALIZA-**
13 **TION.**

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

17 “(ff) **MULTIPLE FIRST PHASE SBIR AWARDS RE-**
18 *PORT.—The Administrator shall, on an annual basis, sub-*
19 *mit to the Committee on Small Business and the Committee*
20 *on Science and Technology of the House of Representatives*
21 *and the Committee on Small Business and Entrepreneur-*
22 *ship of the Senate a list identifying each small business con-*
23 *cern that, for the period covered by the preceding 5 fiscal*
24 *years, received 15 or more first phase SBIR awards and*
25 *no second phase SBIR awards.”.*

1 **SEC. 403. FEDERAL AGENCY ENGAGEMENT WITH SBIR**
2 **AWARDEES THAT HAVE BEEN AWARDED MUL-**
3 **TIPLE PHASE ONE AWARDS BUT HAVE NOT**
4 **BEEN AWARDED PHASE TWO AWARDS.**

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

8 *“(gg) REQUIREMENTS RELATING TO FEDERAL AGEN-*
9 *CY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR*
10 *AWARDEES.—Each Federal agency required by this section*
11 *to conduct an SBIR program shall engage with SBIR*
12 *awardees that have been awarded multiple first phase SBIR*
13 *awards but have not been awarded any second phase SBIR*
14 *awards and shall develop performance measures with re-*
15 *spect to awardee progression in the SBIR program.”.*

16 **SEC. 404. FUNDING FOR ADMINISTRATIVE, OVERSIGHT,**
17 **AND CONTRACT PROCESSING COSTS.**

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

21 *“(hh) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT,*
22 *AND CONTRACT PROCESSING COSTS.—*

23 *“(1) IN GENERAL.—From amounts made avail-*
24 *able to carry out this subsection, the Administrator*
25 *may, on petition by Federal agencies required by this*
26 *section to conduct an SBIR program, transfer funds*

1 to such agencies to assist with the administrative,
2 oversight, and contract processing costs relating to
3 such program.

4 “(2) *PETITIONS.*—*The Administrator shall estab-*
5 *lish rules for making transfers under paragraph (1).*
6 *The initial set of rules shall be promulgated not later*
7 *than 180 days after the date of the enactment of this*
8 *subsection.*

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

13 “(4) *AUTHORIZATION OF APPROPRIATIONS.*—
14 *There is authorized to be appropriated to the Admin-*
15 *istrator to carry out this subsection \$27,500,000 for*
16 *each of fiscal years 2010 and 2011.”.*

17 **SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FED-**
18 **ERAL AGENCIES CALCULATE EXTRAMURAL**
19 **RESEARCH BUDGETS.**

20 *The Comptroller General of the United States shall*
21 *carry out a detailed audit of how Federal agencies calculate*
22 *extramural research budgets for purposes of calculating the*
23 *size of the agencies’ Small Business Innovation Research*
24 *Program and Small Business Technology Transfer Pro-*
25 *gram budgets. Not later than 1 year after the date of the*

1 *enactment of this Act, the Comptroller General shall submit*
2 *to the Committee on Small Business and the Committee on*
3 *Science and Technology of the House of Representatives and*
4 *the Committee on Small Business and Entrepreneurship of*
5 *the Senate a report on the results of the audit.*

6 **SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM**
7 **EVALUATION.**

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

10 *(1) in paragraph (2)(A)—*

11 *(A) by striking “and” at the end of clause*
12 *(ii);*

13 *(B) by inserting “and” at the end of clause*
14 *(iii); and*

15 *(C) by adding at the end the following new*
16 *clause:*

17 *“(iv) information on the ownership*
18 *structure of award recipients, both at the*
19 *time of receipt of the award and upon com-*
20 *pletion of the award period;”;*

21 *(2) by amending paragraph (3) to read as fol-*
22 *lows:*

23 *“(3) UPDATING INFORMATION FOR DATABASE.—*

24 *“(A) IN GENERAL.—A Federal agency shall*
25 *not make a Phase I or Phase II payment to a*

1 *small business concern under this section unless*
2 *the small business concern has provided all in-*
3 *formation required under this subsection and*
4 *available at the time with respect to the award*
5 *under which the payment is made, and with re-*
6 *spect to any other award under this section pre-*
7 *viously received by the small business concern or*
8 *a predecessor in interest to the small business*
9 *concern.*

10 “(B) *APPORTIONMENT.*—*In complying with*
11 *this paragraph, a small business concern may*
12 *apportion sales or additional investment infor-*
13 *mation relating to more than one second phase*
14 *award among those awards, if it notes the ap-*
15 *portionment for each award.*

16 “(C) *ANNUAL UPDATES UPON TERMI-*
17 *NATION.*—*A small business concern receiving an*
18 *award under this section shall—*

19 “(i) *in the case of a second phase*
20 *award, update information in the databases*
21 *required under paragraphs (2) and (6) con-*
22 *cerning that award at the termination of*
23 *the award period;*

24 “(ii) *in the case of award recipients*
25 *not described in clause (iii), be requested to*

1 *voluntarily update such information annu-*
2 *ally thereafter for a period of 5 years; and*
3 *“(iii) in the case of a small business*
4 *concern applying for a subsequent first*
5 *phase or second phase award, be required to*
6 *update such information annually there-*
7 *after for a period of 5 years.”; and*

8 *(3) by adding at the end the following new para-*
9 *graph:*

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

1 **SEC. 407. AGENCY DATABASES TO SUPPORT TECHNOLOGY**
2 **UTILIZATION.**

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

6 *“(7) AGENCY DATABASES TO SUPPORT TECH-*
7 *NOLOGY UTILIZATION.—Each Federal agency with an*
8 *SBIR or STTR program shall create and maintain*
9 *a technology utilization database, which shall be*
10 *available to the public and shall contain data sup-*
11 *plied by the award recipients specifically to help them*
12 *attract customers for the products and services gen-*
13 *erated under the SBIR or STTR project, and to at-*
14 *tract additional investors and business partners.*
15 *Each database created under this paragraph shall in-*
16 *clude information on the other databases created*
17 *under this paragraph by other Federal agencies. Par-*
18 *ticipation in a database under this paragraph shall*
19 *be voluntary, except that such participation is re-*
20 *quired of all award recipients who received supple-*
21 *mental payments from SBIR and STTR program*
22 *funds above their initial Phase II award. Each data-*
23 *base created under this paragraph shall be developed*
24 *and operated in a manner to ensure that each such*
25 *database is relevant to and contributes to the agency’s*

1 *oversight and evaluation of the SBIR and STTR pro-*
2 *grams.”.*

3 **SEC. 408. INTERAGENCY POLICY COMMITTEE.**

4 (a) *ESTABLISHMENT.*—*The Director of the Office of*
5 *Science and Technology Policy shall establish an Inter-*
6 *agency SBIR/STTR Policy Committee comprised of one*
7 *representative from each Federal agency with an SBIR pro-*
8 *gram and the Office of Management and Budget.*

9 (b) *COCHAIRS.*—*The Director of the Office of Science*
10 *and Technology Policy and the Director of the National In-*
11 *stitute of Standards and Technology shall jointly chair the*
12 *Interagency SBIR/STTR Policy Committee.*

13 (c) *DUTIES.*—*The Interagency SBIR/STTR Policy*
14 *Committee shall review the following issues and make policy*
15 *recommendations on ways to improve program effectiveness*
16 *and efficiency:*

17 (1) *The public and government databases de-*
18 *scribed in section 9(k) (1) and (2) of the Small Busi-*
19 *ness Act (15 U.S.C. 638(k) (1) and (2)).*

20 (2) *Federal agency flexibility in establishing*
21 *Phase I and II award sizes, and appropriate criteria*
22 *to exercise such flexibility.*

23 (3) *Commercialization assistance best practices*
24 *in Federal agencies with significant potential to be*
25 *employed by other agencies, and the appropriate steps*

1 to achieve that leverage, as well as proposals for new
2 initiatives to address funding gaps business concerns
3 face after Phase II but before commercialization.

4 (4) *Development and incorporation of a stand-*
5 *ard evaluation framework to enable systematic assess-*
6 *ment of SBIR and STTR, including through im-*
7 *proved tracking of awards and outcomes and develop-*
8 *ment of performance measures for individual agency*
9 *programs.*

10 (d) *REPORTS.—The Interagency SBIR/STTR Policy*
11 *Committee shall transmit to the Committee on Science and*
12 *Technology and the Committee on Small Business of the*
13 *House of Representatives, and to the Committee on Small*
14 *Business and Entrepreneurship of the Senate—*

15 (1) *a report on its review and recommendations*
16 *under subsections (c)(1) and (c)(4) not later than 1*
17 *year after the date of enactment of this Act;*

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

21 (3) *a report on its review and recommendations*
22 *under subsection (c)(3) not later than 2 years after*
23 *the date of enactment of this Act.*

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

2 *Section 108(d) of the Small Business Reauthorization*
3 *Act of 2000 (15 U.S.C. 638 note), enacted into law by ref-*
4 *erence under section 1(a)(9) of the Consolidated Appropria-*
5 *tions Act, 2001 (Public Law 106–554), is amended—*

6 *(1) by striking “of the Senate” and all that fol-*
7 *lows through “not later than 3” and inserting “of the*
8 *Senate, not later than 3”; and*

9 *(2) by striking “; and” and all that follows*
10 *through “update of such report”.*

11 **SEC. 410. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**

12 **TWO AWARDS FOR PROMISING PHASE ONE**
13 **RESEARCH.**

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

17 *“(ii) AUTHORITY TO ‘FAST-TRACK’ PHASE TWO*
18 *AWARDS FOR PROMISING PHASE ONE RESEARCH.—To ad-*
19 *dress the delay between an award for the first phase of an*
20 *SBIR program and the application for and extension of*
21 *an award for the second phase of such program, each Fed-*
22 *eral agency with an SBIR program may develop ‘fast-track’*
23 *programs to eliminate such delay by issuing second phase*
24 *SBIR awards as soon as practicable, including in appro-*
25 *priate cases simultaneously with the issuance of the first*

1 *phase SBIR award. The Administrator shall encourage the*
2 *development of such ‘fast-track’ programs.’.*

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

4 *(a) SBIR AWARD LEVEL AND ANNUAL ADJUST-*
5 *MENTS.—Section 9(j) of the Small Business Act (15 U.S.C.*
6 *638(j)) is amended by adding at the end the following:*

7 *“(4) FURTHER ADDITIONAL MODIFICATIONS.—Not*
8 *later than 180 days after the date of enactment of this para-*
9 *graph and notwithstanding paragraph (2)(D), the Admin-*
10 *istrator shall modify the policy directives issued pursuant*
11 *to this subsection to provide for an increase to \$250,000*
12 *in the amount of funds which an agency may award in*
13 *the first phase of an SBIR program, and to \$2,000,000 in*
14 *the second phase of an SBIR program, and a mandatory*
15 *annual adjustment of such amounts to reflect economic ad-*
16 *justments and programmatic considerations.’.*

17 *(b) STTR AWARD LEVEL AND ANNUAL ADJUST-*
18 *MENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act*
19 *(15 U.S.C. 638(p)(2)(B)(ix)) is amended—*

20 *(1) by striking “\$100,000” and “\$750,000” and*
21 *inserting “\$250,000” and “\$2,000,000”, respectively;*
22 *and*

23 *(2) by striking “greater or lesser amounts” and*
24 *inserting “with a mandatory annual adjustment of*
25 *such amounts to reflect economic adjustments and*

1 *programmatic considerations, and with lesser*
 2 *amounts”.*

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

6 “(jj) *LIMITATION ON PHASE I AND II AWARDS.*—No
 7 *Federal agency shall issue an award under the SBIR pro-*
 8 *gram or the STTR program if the size of the award exceeds*
 9 *the amounts established under subsections (j)(4) and*
 10 *(p)(2)(B)(ix).”.*

11 **SEC. 412. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**
 12 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**
 13 **FUNDED PROJECTS.**

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

17 “(kk) *REQUIREMENTS RELATING TO ADDITIONAL SEC-*
 18 *OND PHASE SBIR AWARDS.*—

19 “(1) *IN GENERAL.*—A small business concern
 20 *that receives a second phase SBIR award for a project*
 21 *remains eligible to receive additional second phase*
 22 *SBIR awards for such project.*

23 “(2) *TECHNICAL OR WEAPONS SYSTEMS.*—Agen-
 24 *cies are expressly authorized to provide additional*
 25 *second phase SBIR awards for testing and evaluation*

1 *section 204 of Public Law 94–305 (15 U.S.C. 634d), may*
 2 *not provide to the Administrator, to any individual who*
 3 *reports directly or indirectly to the Administrator, or to*
 4 *any Federal agency any advice, guidance, oversight, or re-*
 5 *view with respect to the programs authorized under this sec-*
 6 *tion.”.*

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

8 **(a) SHORT TITLE.—This Act may be cited as**
 9 **the “Enhancing Small Business Research and**
 10 **Innovation Act of 2009”.**

11 **(b) TABLE OF CONTENTS.—The table of con-**
 12 **tents for 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 sub-
stantial investment from venture capital oper-
ating 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 “spe-
cial 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 organiza-
tions.

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 Busi-
7 ness Act (15 U.S.C. 638(m)) is amended by
8 striking “2008” and inserting “2011”.**

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

1 SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSI-
2 NESSES WITH SUBSTANTIAL INVESTMENT
3 FROM VENTURE CAPITAL OPERATING COM-
4 PANIES ARE ABLE TO PARTICIPATE IN THE
5 SBIR AND STTR PROGRAMS.

6 **Section 9 of the Small Business Act (15**
7 **U.S.C. 638) is amended by adding at the end**
8 **the following:**

9 **“(aa) VENTURE CAPITAL OPERATING COMPA-**
10 **NIES.—Effective only for the SBIR and STTR**
11 **programs the following shall apply:**

12 **“(1) A business concern that has more**
13 **than 500 employees shall not qualify as a**
14 **small business concern.**

15 **“(2) In determining whether a small**
16 **business concern is independently owned**
17 **and operated under section 3(a)(1) or**
18 **meets the small business size standards**
19 **instituted under section 3(a)(2), the Ad-**
20 **ministrator shall not consider a business**
21 **concern to be affiliated with a venture**
22 **capital operating company (or with any**
23 **other business that the venture capital**
24 **operating company has financed) if—**

1 “(A) the venture capital operating
2 company does not own 50 percent or
3 more of the business concern; and

4 “(B) employees of the venture
5 capital operating company do not
6 constitute a majority of the board of
7 directors of the business concern.

8 “(3) A business concern shall be
9 deemed to be ‘independently owned and
10 operated’ if—

11 “(A) it is owned in majority part
12 by one or more natural persons or
13 venture capital operating companies;

14 “(B) there is no single venture
15 capital operating company that owns
16 50 percent or more of the business
17 concern; and

18 “(C) there is no single venture
19 capital operating company the em-
20 ployees of which constitute a major-
21 ity of the board of directors of the
22 business concern.

23 “(4) If a venture capital operating
24 company controlled by a business with
25 more than 500 employees (in this para-

1 **graph referred to as a ‘VCOC under large**
2 **business control’)** has an ownership inter-
3 **est in a small business concern that is**
4 **owned in majority part by venture cap-**
5 **ital operating companies, the small busi-**
6 **ness concern is eligible to receive an**
7 **award under the SBIR or STTR program**
8 **only if—**

9 **“(A) not more than two VCOCs**
10 **under large business control have an**
11 **ownership interest in the small busi-**
12 **ness concern; and**

13 **“(B) the VCOCs under large busi-**
14 **ness control do not collectively own**
15 **more than 20 percent of the small**
16 **business concern.**

17 **“(5) The term ‘venture capital oper-**
18 **ating company’ means a business con-**
19 **cern—**

20 **“(A) that—**

21 **“(i) is a Venture Capital Oper-**
22 **ating Company, as that term is**
23 **defined in regulations promul-**
24 **gated by the Secretary of Labor;**
25 **or**

1 “(ii) is an entity that—

2 “(I) is registered under
3 the Investment Company Act
4 of 1940 (15 U.S.C. 80a-51 et
5 seq.); or

6 “(II) is an investment com-
7 pany, as defined in section
8 3(c)(1) of such Act (15 U.S.C.
9 80a-3(c)(1)), which is not reg-
10 istered under such Act be-
11 cause it is beneficially owned
12 by less than 100 persons; and

13 “(B) that is itself organized or in-
14 corporated and domiciled in the
15 United States, or is controlled by a
16 business concern that is incorporated
17 and domiciled in the United States.”.

18 **TITLE II—COMMERCIALIZATION**
19 **ACTIVITIES AND RESEARCH**
20 **TOPICS DESERVING SPECIAL**
21 **CONSIDERATION**

22 **SEC. 201. FOCUS ON COMMERCIALIZATION.**

23 **Section 9(a) of the Small Business Act (15**
24 **U.S.C. 638(a)) is amended by adding at the end**
25 **the following: “It is further the policy of Con-**

1 **gress that the programs established in this**
2 **section should focus on promoting research**
3 **and development of projects governed by**
4 **commercial business plans, which have sig-**
5 **nificant potential to produce products or**
6 **services for the marketplace or for acqui-**
7 **sition by Federal agencies.”.**

8 **SEC. 202. INCLUSION OF ENERGY-RELATED RESEARCH**
9 **TOPICS AND RARE DISEASE-RELATED RE-**
10 **SEARCH TOPICS AS DESERVING “SPECIAL**
11 **CONSIDERATION” AS SBIR RESEARCH TOP-**
12 **ICS.**

13 **Section 9(g)(3) of the Small Business Act**
14 **(15 U.S.C. 638(g)(3)) is amended—**

15 **(1) in the matter preceding subpara-**
16 **graph (A) by inserting after “critical tech-**
17 **nologies” the following: “or pressing re-**
18 **search priorities”;**

19 **(2) in subparagraph (A) by striking**
20 **“or” at the end; and**

21 **(3) by adding at the end the fol-**
22 **lowing:**

23 **“(C) the National Academy of**
24 **Sciences, in the final report issued by**
25 **the ‘America’s Energy Future: Tech-**

1 nology Opportunities, Risks, and
2 Tradeoffs’ project, and in subsequent
3 reports issued by the National Acad-
4 emy of Sciences on sustainability, en-
5 ergy, and alternative fuels;

6 “(D) the National Institutes of
7 Health, in the annual report on the
8 rare diseases research activities of
9 the National Institutes of Health for
10 fiscal year 2005, and in subsequent
11 reports issued by the National Insti-
12 tutes of Health on rare diseases re-
13 search activities; or

14 “(E) the National Academy of
15 Sciences, in the final report issued by
16 the ‘Transit Research and Develop-
17 ment: Federal Role in the National
18 Program’ project and the ‘Transpor-
19 tation Research, Development and
20 Technology Strategic Plan (2006–
21 2010)’ issued by the United States De-
22 partment of Transportation Research
23 and Innovative Technology Adminis-
24 tration, and in subsequent reports
25 issued by the National Academy of

1 **Sciences and United States Depart-**
2 **ment of Transportation on transpor-**
3 **tation and infrastructure;”.**

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

5 **(a) SBIR.—Section 9(g)(3) of the Small**
6 **Business Act (15 U.S.C. 638(g)(3)), as amended,**
7 **is further amended—**

8 **(1) in subparagraph (D) by striking**
9 **“or” at the end;**

10 **(2) in subparagraph (E) by adding**
11 **“or” at the end; and**

12 **(3) by adding at the end the fol-**
13 **lowing:**

14 **“(F) the national nanotechnology**
15 **strategic plan required under section**
16 **2(c)(4) of the 21st Century Nanotech-**
17 **nology Research and Development**
18 **Act (15 U.S.C. 7501(c)(4)) and in subse-**
19 **quent reports issued by the National**
20 **Science and Technology Council**
21 **Committee on Technology, focusing**
22 **on areas of nanotechnology identified**
23 **in such plan;”.**

1 **(b) STTR.—Section 9(o)(3) of the Small**
2 **Business Act (15 U.S.C. 638(o)(3)) is amend-**
3 **ed—**

4 **(1) in subparagraph (A) by striking**
5 **“or” at the end;**

6 **(2) in subparagraph (B) by adding**
7 **“or” at the end; and**

8 **(3) by adding at the end the fol-**
9 **lowing:**

10 **“(C) by the national nanotechnol-**
11 **ogy strategic plan required under**
12 **section 2(c)(4) of the 21st Century**
13 **Nanotechnology Research and Devel-**
14 **opment Act (15 U.S.C. 7501(c)(4)) and**
15 **in subsequent reports issued by the**
16 **National Science and Technology**
17 **Council Committee on Technology, fo-**
18 **cusing on areas of nanotechnology**
19 **identified in such plan;”.**

20 **SEC. 204. CLARIFYING THE DEFINITION OF “PHASE**
21 **THREE”.**

22 **Section 9(e) of the Small Business Act (15**
23 **U.S.C. 638(e)) is amended—**

24 **(1) in paragraph (4)(C) in the matter**
25 **preceding clause (i) by inserting after “a**

1 **third phase” the following: “, which shall**
2 **consist of work that derives from, ex-**
3 **tends, or logically concludes efforts per-**
4 **formed under prior SBIR funding agree-**
5 **ments (which may be referred to as**
6 **‘Phase III’);**

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

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

12 **(4) by adding at the end the fol-**
13 **lowing:**

14 **“(10) the term ‘commercialization’**
15 **means the process of developing market-**
16 **able products or services and producing**
17 **and delivering products or services for**
18 **sale (whether by the originating party or**
19 **by others) to government or commercial**
20 **markets.”.**

21 **SEC. 205. AGENCY RESEARCH GOALS.**

22 **Section 9 of the Small Business Act (15**
23 **U.S.C. 638), as amended, is further amended**
24 **by striking subsection (h) and inserting the**
25 **following:**

1 **“(h) AGENCY RESEARCH GOALS.—**

2 **“(1) IN GENERAL.—In addition to the**
3 **requirements of subsection (f), each Fed-**
4 **eral agency that is required by this sec-**
5 **tion to have an SBIR program and that**
6 **awards annually \$5,000,000,000 or more**
7 **in procurement contracts shall, effective**
8 **for fiscal year 2010 and each fiscal year**
9 **thereafter, establish annual goals for**
10 **commercialization of projects funded by**
11 **SBIR awards.**

12 **“(2) SPECIFIC GOALS.—The goals re-**
13 **quired by paragraph (1) shall include**
14 **specific goals for each of the following:**

15 **“(A) The percentage of SBIR**
16 **projects that receive funding for the**
17 **third phase (as defined in subsection**
18 **(e)(4)(C)).**

19 **“(B) The percentage of SBIR**
20 **projects that are successfully inte-**
21 **grated into a program of record.**

22 **“(C) The amount of Federal dol-**
23 **lars received by SBIR projects**
24 **through Federal contracts, not in-**

1 cluding dollars received through the
2 **SBIR program.**

3 **“(3) SUBMISSION TO COMMITTEES.—For**
4 **each fiscal year for which goals are re-**
5 **quired by paragraph (1), the agency shall**
6 **submit to the Committee on Small Busi-**
7 **ness and the Committee on Science and**
8 **Technology of the House of Representa-**
9 **tives and the Committee on Small Busi-**
10 **ness and Entrepreneurship of the Sen-**
11 **ate—**

12 **“(A) not later than 60 days after**
13 **the beginning of the fiscal year, the**
14 **goals; and**

15 **“(B) not later than 90 days after**
16 **the end of the fiscal year, data on the**
17 **extent to which the goals were met**
18 **and a description of the methodology**
19 **used to collect such data.”.**

20 **SEC. 206. COMMERCIALIZATION PROGRAMS.**

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

24 **“(bb) COMMERCIALIZATION PROGRAMS.—**

1 **“(1) IN GENERAL.—Each agency re-**
2 **quired by this section to conduct an SBIR**
3 **program shall establish a commercializa-**
4 **tion program that supports the progress**
5 **of SBIR awardees to the third phase. The**
6 **commercialization program may include**
7 **activities such as partnership databases,**
8 **partnership conferences, multiple second**
9 **phases, mentoring between prime con-**
10 **tractors and SBIR awardees, multiple**
11 **second phases with matching private in-**
12 **vestment requirements, jumbo awards,**
13 **SBIR helpdesks, and transition assistance**
14 **programs. The agency shall include in its**
15 **annual report an analysis of the various**
16 **activities considered for inclusion in the**
17 **commercialization program and a state-**
18 **ment of the reasons why each activity**
19 **considered was included or not included,**
20 **as the case may be.**

21 **“(2) FUNDING FOR COMMERCIALIZATION**
22 **PROGRAMS.—**

23 **“(A) IN GENERAL.—From amounts**
24 **made available to carry out this para-**
25 **graph, the Administrator may, on pe-**

1 **tion by agencies required by this**
2 **section to conduct an SBIR program,**
3 **transfer funds to such agencies to**
4 **support the commercialization pro-**
5 **grams of such agencies.**

6 **“(B) PETITIONS.—The Adminis-**
7 **trator shall establish rules for making**
8 **transfers under subparagraph (A).**
9 **The initial set of rules shall be pro-**
10 **mulgated not later than 90 days after**
11 **the date of the enactment of this**
12 **paragraph.**

13 **“(C) AUTHORIZATION OF APPROPRIA-**
14 **TIONS.—There is authorized to be ap-**
15 **propriated to the Administrator to**
16 **carry out this paragraph \$27,500,000**
17 **for fiscal year 2010 and each fiscal**
18 **year thereafter.**

19 **“(3) FUNDING LIMITATION.—For pay-**
20 **ment of expenses incurred to administer**
21 **the commercialization programs de-**
22 **scribed in paragraphs (1) and (2), the**
23 **head of an agency may use not more than**
24 **an amount equal to 1 percent of the**
25 **funds set aside for the agency’s Small**

1 **Business Innovation Research program.**

2 **Such funds—**

3 **“(A) shall not be subject to the**
4 **limitations on the use of funds in sub-**
5 **section (f)(2); and**

6 **“(B) shall not be used for the pur-**
7 **pose of funding costs associated with**
8 **salaries and expenses of employees of**
9 **the Federal Government.”.**

10 **TITLE III—RURAL**
11 **DEVELOPMENT AND OUTREACH**

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

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

16 **“(s) OUTREACH AND SUPPORT ACTIVITIES.—**

17 **“(1) IN GENERAL.—Subject to the other**
18 **provisions of this subsection, the Admin-**
19 **istrator shall make grants on a competi-**
20 **tive basis to organizations, to be used by**
21 **the organizations to do one or both of the**
22 **following:**

23 **“(A) To conduct outreach efforts**
24 **to increase participation in the pro-**
25 **grams under this section.**

1 **“(B) To provide application sup-**
2 **port and entrepreneurial and busi-**
3 **ness skills support to prospective par-**
4 **ticipants in the programs under this**
5 **section.**

6 **“(2) AUTHORIZATION OF APPROPRIA-**
7 **TIONS.—There is authorized to be appro-**
8 **priated to the Administrator \$10,000,000**
9 **to carry out paragraph (1) for each of fis-**
10 **cal years 2010 and 2011.**

11 **“(3) AMOUNT OF ASSISTANCE.—For each**
12 **of subparagraphs (A) and (B) of para-**
13 **graph (1), the amount of assistance pro-**
14 **vided to an organization under that sub-**
15 **paragraph in any fiscal year—**

16 **“(A) shall be equal to the total**
17 **amount of matching funds from non-**
18 **Federal sources provided by the orga-**
19 **nization; and**

20 **“(B) shall not exceed \$250,000.**

21 **“(4) DIRECTION.—An organization re-**
22 **ceiving funds under paragraph (1) shall,**
23 **in using those funds, direct its activities**
24 **at one or both of the following:**

1 **“(A) Small business concerns lo-**
2 **cated in geographic areas that are**
3 **underrepresented in the programs**
4 **under this section.**

5 **“(B) Small business concerns**
6 **owned and controlled by women,**
7 **small business concerns owned and**
8 **controlled by service-disabled vet-**
9 **erans, and small business concerns**
10 **owned and controlled by minorities.**

11 **“(5) ADVISORY BOARD.—**

12 **“(A) ESTABLISHMENT.—Not later**
13 **than 90 days after the date of the en-**
14 **actment of this subsection, the Ad-**
15 **ministrator shall establish an advi-**
16 **sory board for the activities carried**
17 **out under this subsection.**

18 **“(B) NON-APPLICABILITY OF FACA.—**
19 **The Federal Advisory Committee Act**
20 **(5 U.S.C. App.) shall not apply to the**
21 **advisory board.**

22 **“(C) MEMBERS.—The members of**
23 **the advisory board shall include the**
24 **following:**

1 “(i) The Administrator (or the
2 Administrator’s designee).

3 “(ii) For each Federal agency
4 required by this section to con-
5 duct an SBIR program, the head
6 of the agency (or the designee of
7 the head of the agency).

8 “(iii) Representatives of small
9 business concerns that are cur-
10 rent or former recipients of SBIR
11 awards, or representatives of or-
12 ganizations of such concerns.

13 “(iv) Representatives of serv-
14 ice providers of SBIR outreach
15 and assistance, or representatives
16 of organizations of such service
17 providers.

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

20 “(i) To develop guidelines for
21 awards under paragraph (1), in-
22 cluding guidelines relating to
23 award sizes, proposal require-
24 ments, measures for monitoring
25 awardee performance, and meas-

1 **ures for determining the overall**
2 **value of the activities carried out**
3 **by the awardees.**

4 **“(ii) To identify opportunities**
5 **for coordinated outreach, tech-**
6 **anical assistance, and commer-**
7 **cialization activities among Fed-**
8 **eral agencies, the recipients of**
9 **the awards under paragraph (1),**
10 **and applicants and recipients of**
11 **SBIR awards, including opportu-**
12 **nities such as—**

13 **“(I) podcasting or**
14 **webcasting for conferences,**
15 **training workshops, and other**
16 **events;**

17 **“(II) shared online re-**
18 **sources to match prospective**
19 **applicants with the network**
20 **of paragraph (1) recipients;**
21 **and**

22 **“(III) venture capital con-**
23 **ferences tied to technologies**
24 **and sectors that cross agen-**
25 **cies.**

1 “(iii) To review and rec-
2 ommend revisions to activities
3 under paragraph (1).

4 “(iv) To submit to the Com-
5 mittee on Small Business and En-
6 trepreneurship of the Senate and
7 the Committee on Small Business
8 and the Committee on Science
9 and Technology of the House of
10 Representatives an annual report
11 on the activities carried out
12 under paragraph (1) and the ef-
13 fectiveness and impact of those
14 activities.

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

21 “(A) criteria designed to give pref-
22 erence to applicants who propose to
23 carry out activities that will reach ei-
24 ther an underperforming geographic
25 area or an underrepresented popu-

1 **lation group (as measured by the**
2 **number of SBIR applicants);**

3 **“(B) criteria designed to give pref-**
4 **erence to applicants who propose to**
5 **carry out activities that complement,**
6 **and are integrated into, the existing**
7 **public-private innovation support**
8 **system for the targeted region or pop-**
9 **ulation;**

10 **“(C) criteria designed to give pref-**
11 **erence to applicants who propose to**
12 **measure the effectiveness of the pro-**
13 **posed activities; and**

14 **“(D) criteria designed to give**
15 **preference to applicants who include**
16 **a Small Business Development Center**
17 **program that is accredited for its**
18 **technology services.**

19 **“(7) PEER REVIEW.—In awarding**
20 **grants under this subsection, the Admin-**
21 **istrator shall use a peer review process.**
22 **Reviewers shall include—**

23 **“(A) SBIR program managers for**
24 **agencies required by this section to**
25 **conduct SBIR programs; and**

1 **“(B) private individuals and orga-**
2 **nizations that are knowledgeable**
3 **about SBIR, the innovation process,**
4 **technology commercialization, and**
5 **State and regional technology-based**
6 **economic development programs.**

7 **“(8) PER-STATE LIMITATIONS.—**

8 **“(A) IN GENERAL.—To be eligible to**
9 **receive a grant under this subsection,**
10 **the applicant must have the written**
11 **endorsement of the Governor of the**
12 **State where the targeted regions or**
13 **populations are located (if the re-**
14 **gions or populations are located in**
15 **more than one State, the applicant**
16 **must have the written endorsement**
17 **of the Governor of each such State).**
18 **Such an endorsement must indicate**
19 **that the Governor will ensure that**
20 **the activities to be carried out under**
21 **the grant will be integrated with the**
22 **balance of the State’s portfolio of in-**
23 **vestments to help small business con-**
24 **cerns commercialize technology.**

1 **“(B) LIMITATION.—Each fiscal year,**
2 **a Governor may have in effect not**
3 **more than one written endorsement**
4 **for a grant under paragraph (1)(A),**
5 **and not more than one written en-**
6 **dorsement for a grant under para-**
7 **graph (1)(B).**

8 **“(9) SPECIFIC REQUIREMENTS FOR**
9 **AWARDS.—In making awards under para-**
10 **graph (1) the Administrator shall ensure**
11 **that each award shall be for a period of**
12 **2 fiscal years. The Administrator shall es-**
13 **tablish rules and performance goals for**
14 **the disbursement of funds for the second**
15 **fiscal year, and funds shall not be dis-**
16 **bursed to a recipient for such a fiscal**
17 **year until after the advisory board estab-**
18 **lished under this subsection has deter-**
19 **mined that the recipient is in compliance**
20 **with the rules and performance goals.”.**

21 **SEC. 302. RURAL PREFERENCE.**

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

1 **“(cc) RURAL PREFERENCE.—In making**
2 **awards under this section, Federal agencies**
3 **shall give priority to applications so as to in-**
4 **crease the number of SBIR and STTR award**
5 **recipients from rural areas.”.**

6 **SEC. 303. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**
7 **LEASE CONTACT INFORMATION TO ECO-**
8 **NOMIC DEVELOPMENT ORGANIZATIONS.**

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

12 **“(dd) CONSENT TO RELEASE CONTACT IN-**
13 **FORMATION TO ORGANIZATIONS.—**

14 **“(1) ENABLING CONCERN TO GIVE CON-**
15 **SENT.—Each Federal agency required by**
16 **this section to conduct an SBIR program**
17 **shall enable a small business concern**
18 **that is an SBIR applicant to indicate to**
19 **the agency whether the agency has its**
20 **consent to—**

21 **“(A) identify the concern to ap-**
22 **propriate local and State-level eco-**
23 **nomics development organizations as**
24 **an SBIR applicant; and**

1 **“(B) release the concern’s contact**
2 **information to such organizations.**

3 **“(2) RULES.—The Administrator shall**
4 **establish rules to implement this sub-**
5 **section. The rules shall include a require-**
6 **ment that the agency include in its SBIR**
7 **application forms a provision through**
8 **which the applicant can indicate consent**
9 **for purposes of paragraph (1).”.**

10 **SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR**
11 **AWARDEES AND PRIME CONTRACTORS, VEN-**
12 **TURE CAPITAL INVESTMENT COMPANIES,**
13 **AND LARGER BUSINESSES.**

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

17 **“(ee) INCREASED PARTNERSHIPS.—**

18 **“(1) IN GENERAL.—Each agency re-**
19 **quired by this section to conduct an SBIR**
20 **program shall establish initiatives by**
21 **which the agency encourages partner-**
22 **ships between SBIR awardees and prime**
23 **contractors, venture capital investment**
24 **companies, business incubators, and larg-**
25 **er businesses, for the purpose of facili-**

1 tating the progress of the SBIR awardees
2 to the third phase.

3 “(2) DEFINITION.—In this subsection,
4 the term ‘business incubator’ means an
5 entity that provides coordinated and spe-
6 cialized services to entrepreneurial busi-
7 nesses which meet selected criteria dur-
8 ing the businesses’ startup phases, in-
9 cluding providing services such as shared
10 office space and office services, access to
11 equipment, access to telecommunications
12 and technology services, flexible leases,
13 specialized management assistance, ac-
14 cess to financing, mentoring and training
15 services, or other coordinated business or
16 technical support services designed to
17 provide business development assistance
18 to entrepreneurial businesses during
19 these businesses’ startup 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**
8 **SOLICITATIONS ANNUALLY.—Section 9(g)(2) of**
9 **the Small Business Act (15 U.S.C. 638(g)(2)) is**
10 **amended by inserting before the semicolon at**
11 **the end the following: “, but not less often**
12 **than twice per year”.**

13 **(b) SHORTENED PERIOD FOR FINAL DECI-**
14 **SIONS ON APPLICATIONS.—Section 9(g)(4) of the**
15 **Small Business Act (15 U.S.C. 638(g)(4)) is**
16 **amended by inserting before the semicolon at**
17 **the end the following: “, but a final decision**
18 **on each proposal shall be rendered not later**
19 **than 90 days after the date on which the solici-**
20 **itation closes unless the Administrator deter-**
21 **mines, on a case by case basis, that a decision**
22 **may be extended from 90 days to 180 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
5 U.S.C. 638), as amended, is further amended
6 by adding at the end the following:

7 “(ff) MULTIPLE FIRST PHASE SBIR AWARDS
8 REPORT.—The Administrator shall, on an an-
9 nual basis, submit to the Committee on Small
10 Business and the Committee on Science and
11 Technology of the House of Representatives
12 and the Committee on Small Business and En-
13 trepreneurship of the Senate a list identifying
14 each small business concern that, for the pe-
15 riod covered by the preceding 5 fiscal years,
16 received 15 or more first phase SBIR awards
17 and no second phase SBIR awards.”.

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

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

25 “(gg) REQUIREMENTS RELATING TO FEDERAL
26 AGENCY ENGAGEMENT WITH CERTAIN FIRST

1 **PHASE SBIR AWARDEES.—Each Federal agency**
2 **required by this section to conduct an SBIR**
3 **program shall engage with SBIR awardees**
4 **that have been awarded multiple first phase**
5 **SBIR awards but have not been awarded any**
6 **second phase SBIR awards and shall develop**
7 **performance measures with respect to award-**
8 **ee progression in the SBIR program.”.**

9 **SEC. 404. FUNDING FOR ADMINISTRATIVE, OVERSIGHT,**
10 **AND CONTRACT PROCESSING COSTS.**

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

14 **“(hh) ASSISTANCE FOR ADMINISTRATIVE,**
15 **OVERSIGHT, AND CONTRACT PROCESSING**
16 **COSTS.—**

17 **“(1) IN GENERAL.—From amounts**
18 **made available to carry out this sub-**
19 **section, the Administrator may, on peti-**
20 **tion by Federal agencies required by this**
21 **section to conduct an SBIR program,**
22 **transfer funds to such agencies to assist**
23 **with the administrative, oversight, and**
24 **contract processing costs relating to such**
25 **program.**

1 **“(2) PETITIONS.—The Administrator**
2 **shall establish rules for making transfers**
3 **under paragraph (1). The initial set of**
4 **rules shall be promulgated not later than**
5 **180 days after the date of the enactment**
6 **of this subsection.**

7 **“(3) LIMIT ON TRANSFER.—A Federal**
8 **agency may not receive under this sub-**
9 **section in a fiscal year an amount greater**
10 **than 3 percent of the SBIR budget of**
11 **such agency for such fiscal year.**

12 **“(4) AUTHORIZATION OF APPROPRIA-**
13 **TIONS.—There is authorized to be appro-**
14 **riated to the Administrator to carry out**
15 **this subsection \$27,500,000 for each of fis-**
16 **cal years 2010 and 2011.”.**

17 **SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FED-**
18 **ERAL AGENCIES CALCULATE EXTRAMURAL**
19 **RESEARCH BUDGETS.**

20 **The Comptroller General of the United**
21 **States shall carry out a detailed audit of how**
22 **Federal agencies calculate extramural re-**
23 **search budgets for purposes of calculating the**
24 **size of the agencies’ Small Business Innova-**
25 **tion Research Program and Small Business**

1 **Technology Transfer Program budgets. Not**
2 **later than 1 year after the date of the enact-**
3 **ment of this Act, the Comptroller General**
4 **shall submit to the Committee on Small Busi-**
5 **ness and the Committee on Science and Tech-**
6 **nology of the House of Representatives and**
7 **the Committee on Small Business and Entre-**
8 **preneurship of the Senate a report on the re-**
9 **sults of the audit.**

10 **SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM**
11 **EVALUATION.**

12 **Section 9(k) of the Small Business Act (15**
13 **U.S.C. 638(k)) is amended—**

14 **(1) in paragraph (2)(A)—**

15 **(A) by striking “and” at the end of**
16 **clause (ii);**

17 **(B) by inserting “and” at the end**
18 **of clause (iii); and**

19 **(C) by adding at the end the fol-**
20 **lowing new clause:**

21 **“(iv) information on the own-**
22 **ership structure of award recipi-**
23 **ents, both at the time of receipt of**
24 **the award and upon completion**
25 **of the award period;”;**

1 (2) by amending paragraph (3) to
2 read as follows:

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

5 “(A) IN GENERAL.—A Federal agen-
6 cy shall not make a Phase I or Phase
7 II payment to a small business con-
8 cern under this section unless the
9 small business concern has provided
10 all information required under this
11 subsection and available at the time
12 with respect to the award under
13 which the payment is made, and with
14 respect to any other award under this
15 section previously received by the
16 small business concern or a prede-
17 cessor in interest to the small busi-
18 ness concern.

19 “(B) APPORTIONMENT.—In com-
20 plying with this paragraph, a small
21 business concern may apportion sales
22 or additional investment information
23 relating to more than one second
24 phase award among those awards, if

1 **it notes the apportionment for each**
2 **award.**

3 **“(C) ANNUAL UPDATES UPON TERMI-**
4 **NATION.—A small business concern re-**
5 **ceiving an award under this section**
6 **shall—**

7 **“(i) in the case of a second**
8 **phase award, update information**
9 **in the databases required under**
10 **paragraphs (2) and (6) concerning**
11 **that award at the termination of**
12 **the award period;**

13 **“(ii) in the case of award re-**
14 **ipients not described in clause**
15 **(iii), be requested to voluntarily**
16 **update such information annually**
17 **thereafter for a period of 5 years;**
18 **and**

19 **“(iii) in the case of a small**
20 **business concern applying for a**
21 **subsequent first phase or second**
22 **phase award, be required to up-**
23 **date such information annually**
24 **thereafter for a period of 5**
25 **years.”; and**

1 **(3) by adding at the end the following**
2 **new paragraph:**

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

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

24 **Section 9(k) of the Small Business Act (15**
25 **U.S.C. 638(k)), as amended, is further amend-**

1 ed by adding at the end the following new
2 paragraph:

3 “(7) AGENCY DATABASES TO SUPPORT
4 TECHNOLOGY UTILIZATION.—Each Federal
5 agency with an SBIR or STTR program
6 shall create and maintain a technology
7 utilization database, which shall be avail-
8 able to the public and shall contain data
9 supplied by the award recipients specifi-
10 cally to help them attract customers for
11 the products and services generated
12 under the SBIR or STTR project, and to
13 attract additional investors and business
14 partners. Each database created under
15 this paragraph shall include information
16 on the other databases created under this
17 paragraph by other Federal agencies.
18 Participation in a database under this
19 paragraph shall be voluntary, except that
20 such participation is required of all
21 award recipients who received supple-
22 mental payments from SBIR and STTR
23 program funds above their initial Phase
24 II award. Each database created under
25 this paragraph shall be developed and

1 **operated in a manner to ensure that each**
2 **such database is relevant to and contrib-**
3 **utes to the agency’s oversight and evalua-**
4 **tion of the SBIR and STTR programs.”.**

5 **SEC. 408. INTERAGENCY POLICY COMMITTEE.**

6 **(a) ESTABLISHMENT.—The Director of the**
7 **Office of Science and Technology Policy shall**
8 **establish an Interagency SBIR/STTR Policy**
9 **Committee comprised of one representative**
10 **from each Federal agency with an SBIR pro-**
11 **gram and the Office of Management and**
12 **Budget.**

13 **(b) COCHAIRS.—The Director of the Office**
14 **of Science and Technology Policy and the Di-**
15 **rector of the National Institute of Standards**
16 **and Technology shall jointly chair the Inter-**
17 **agency SBIR/STTR Policy Committee.**

18 **(c) DUTIES.—The Interagency SBIR/STTR**
19 **Policy Committee shall review the following**
20 **issues and make policy recommendations on**
21 **ways to improve program effectiveness and**
22 **efficiency:**

23 **(1) The public and government data-**
24 **bases described in section 9(k) (1) and (2)**

1 of the Small Business Act (15 U.S.C.
2 638(k) (1) and (2)).

3 (2) Federal agency flexibility in estab-
4 lishing Phase I and II award sizes, and
5 appropriate criteria to exercise such
6 flexibility.

7 (3) Commercialization assistance best
8 practices in Federal agencies with signifi-
9 cant potential to be employed by other
10 agencies, and the appropriate steps to
11 achieve that leverage, as well as pro-
12 posals for new initiatives to address
13 funding gaps business concerns face after
14 Phase II but before commercialization.

15 (4) Development and incorporation of
16 a standard evaluation framework to en-
17 able systematic assessment of SBIR and
18 STTR, including through improved track-
19 ing of awards and outcomes and develop-
20 ment of performance measures for indi-
21 vidual agency programs.

22 (d) REPORTS.—The Interagency SBIR/
23 STTR Policy Committee shall transmit to the
24 Committee on Science and Technology and
25 the Committee on Small Business of the

1 **House of Representatives, and to the Com-**
2 **mittee on Small Business and Entrepreneur-**
3 **ship of the Senate—**

4 **(1) a report on its review and rec-**
5 **ommendations under subsections (c)(1)**
6 **and (c)(4) not later than 1 year after the**
7 **date of enactment of this Act;**

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

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

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

17 **Section 108(d) of the Small Business Reau-**
18 **thorization Act of 2000 (15 U.S.C. 638 note),**
19 **enacted into law by reference under section**
20 **1(a)(9) of the Consolidated Appropriations**
21 **Act, 2001 (Public Law 106–554), is amended—**

22 **(1) by striking “of the Senate” and all**
23 **that follows through “not later than 3”**
24 **and inserting “of the Senate, not later**
25 **than 3”; and**

1 **(2) by striking “; and” and all that fol-**
2 **lows through “update of such report”.**

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

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

9 **“(ii) AUTHORITY TO ‘FAST-TRACK’ PHASE**
10 **TWO AWARDS FOR PROMISING PHASE ONE RE-**
11 **SEARCH.—To address the delay between an**
12 **award for the first phase of an SBIR program**
13 **and the application for and extension of an**
14 **award for the second phase of such program,**
15 **each Federal agency with an SBIR program**
16 **may develop ‘fast-track’ programs to elimi-**
17 **nate such delay by issuing second phase SBIR**
18 **awards as soon as practicable, including in**
19 **appropriate cases simultaneously with the**
20 **issuance of the first phase SBIR award. The**
21 **Administrator shall encourage the develop-**
22 **ment of such ‘fast-track’ programs.”.**

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

24 **(a) SBIR AWARD LEVEL AND ANNUAL AD-**
25 **JUSTMENTS.—Section 9(j) of the Small Business**

1 Act (15 U.S.C. 638(j)) is amended by adding at
2 the end the following:

3 “(4) FURTHER ADDITIONAL MODIFICA-
4 TIONS.—Not later than 180 days after the date
5 of enactment of this paragraph and notwith-
6 standing paragraph (2)(D), the Administrator
7 shall modify the policy directives issued pur-
8 suant to this subsection to provide for an in-
9 crease to \$250,000 in the amount of funds
10 which an agency may award in the first phase
11 of an SBIR program, and to \$2,000,000 in the
12 second phase of an SBIR program, and a man-
13 datory annual adjustment of such amounts to
14 reflect economic adjustments and pro-
15 grammatic considerations.”.

16 (b) STTR AWARD LEVEL AND ANNUAL AD-
17 JUSTMENTS.—Section 9(p)(2)(B)(ix) of the
18 Small Business Act (15 U.S.C. 638(p)(2)(B)(ix))
19 is amended—

20 (1) by striking “\$100,000” and
21 “\$750,000” and inserting “\$250,000” and
22 “\$2,000,000”, respectively; and

23 (2) by striking “greater or lesser
24 amounts” and inserting “with a manda-
25 tory annual adjustment of such amounts

1 to reflect economic adjustments and pro-
2 grammatic considerations, and with less-
3 er amounts”.

4 (c) **LIMITATION ON CERTAIN AWARDS.—**Sec-
5 tion 9 of the Small Business Act (15 U.S.C.
6 638), as amended, is further amended by add-
7 ing at the end the following:

8 “(jj) **LIMITATION ON PHASE I AND II**
9 **AWARDS.—**No Federal agency shall issue an
10 award under the SBIR program or the STTR
11 program if the size of the award exceeds the
12 amounts established under subsections (j)(4)
13 and (p)(2)(B)(ix).”.

14 **SEC. 412. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**
15 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**
16 **FUNDED PROJECTS.**

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

20 “(kk) **REQUIREMENTS RELATING TO ADDI-**
21 **TIONAL SECOND PHASE SBIR AWARDS.—**

22 “(1) **IN GENERAL.—**A small business
23 concern that receives a second phase
24 **SBIR award for a project remains eligible**

1 to receive additional second phase SBIR
2 awards for such project.

3 “(2) TECHNICAL OR WEAPONS SYSTEMS.—
4 Agencies are expressly authorized to pro-
5 vide additional second phase SBIR
6 awards for testing and evaluation assist-
7 ance for the insertion of SBIR tech-
8 nologies into technical or weapons sys-
9 tems.”.

10 SEC. 413. FIRST PHASE REQUIRED.

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

14 “(II) FIRST PHASE REQUIRED.—Under this
15 section, a Federal agency shall provide to a
16 small business concern an award for the sec-
17 ond phase of an SBIR program with respect
18 to a project only if such agency finds that the
19 small business concern has been provided an
20 award for the first phase of an SBIR program
21 with respect to such project or has completed
22 the determinations described in subsection
23 (e)(4)(A) with respect to such project despite
24 not having been provided an award for the
25 first phase.”.

Union Calendar No. 102

111TH CONGRESS
1ST Session

H. R. 2965

[Report No. 111-190, Parts I and II]

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.

JULY 7, 2009

Reported from the Committee on Science and Technology
with an amendment