

110TH CONGRESS
2D SESSION

H. R. 5819

To amend the Small Business Act to improve the Small Business Innovation Research (SBIR) program and the Small Business Technology Transfer (STTR) program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2008

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

A BILL

To amend the Small Business Act to improve the Small Business Innovation Research (SBIR) program and the Small Business Technology Transfer (STTR) program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “SBIR/STTR Reauthorization Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—MODERNIZING THE SBIR AND STTR PROGRAMS

- Sec. 101. Extension of termination dates.
 Sec. 102. Increased SBIR and STTR set-asides.
 Sec. 103. Increased SBIR and STTR award levels.
 Sec. 104. Establishment of SBIR advisory boards.
 Sec. 105. Increase in amount of technical assistance funds and option to purchase technical assistance directly.
 Sec. 106. Increased number of research topic solicitations annually and shortened period for final decisions on applications.
 Sec. 107. Inclusion of energy-related research topics and rare-disease-related research topics as deserving “special consideration” as SBIR research topics.
 Sec. 108. Agencies should fund vital R&D projects with the potential for commercialization.
 Sec. 109. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.
 Sec. 110. Limitation on certain awards.
 Sec. 111. Comptroller General audit of how Federal agencies calculate extramural research budgets.

TITLE II—VENTURE CAPITAL INVESTMENT STANDARDS

- Sec. 201. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR program.

TITLE III—SBIR AND ECONOMIC DEVELOPMENT

- Sec. 301. Reauthorization and modernization of Federal and State Technology Partnership Program (FAST).
 Sec. 302. Obtaining SBIR applicant’s consent to release contact information to economic development organizations.

TITLE IV—ADVANCING COMMERCIALIZATION OF SBIR-FUNDED RESEARCH

- Sec. 401. Clarifying the definition of “Phase Three”.
 Sec. 402. Agency research goals.
 Sec. 403. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.
 Sec. 404. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.
 Sec. 405. Express authority to “fast-track” Phase Two awards for promising Phase One research.
 Sec. 406. Commercialization programs.
 Sec. 407. Report on efforts to enhance manufacturing activities.

TITLE V—SUPPORTING PROGRAM UTILIZATION

- Sec. 501. Agency databases to support program evaluation.
 Sec. 502. Agency databases to support technology utilization.
 Sec. 503. Interagency Policy Committee.
 Sec. 504. Nanotechnology-related research topics.
 Sec. 505. Rural preference.

TITLE VI—IMPLEMENTATION

- Sec. 601. Conforming amendments to the SBIR and STTR policy directives.
 Sec. 602. National Research Council SBIR Study.

1 **TITLE I—MODERNIZING THE**
 2 **SBIR AND STTR PROGRAMS**

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

4 (a) SBIR.—Section 9(m) of the Small Business Act
 5 (15 U.S.C. 638(m)) is amended by striking “2008” and
 6 inserting “2010”.

7 (b) STTR.—Section 9(n)(1)(A) of the Small Busi-
 8 ness Act (15 U.S.C. 638(n)(1)(A)) is amended by striking
 9 “2009” and inserting “2010”.

10 **SEC. 102. INCREASED SBIR AND STTR SET-ASIDES.**

11 (a) SBIR.—Section 9(f)(1) of the Small Business Act
 12 (15 U.S.C. 638(f)(1)) is amended—

13 (1) in subparagraph (B) by striking “and” at
 14 the end;

15 (2) in subparagraph (C) by striking “in each
 16 fiscal year thereafter,” and inserting “in each of fis-
 17 cal years 1997 through 2008; and” and

18 (3) by adding after subparagraph (C) the fol-
 19 lowing:

20 “(D) not less than 3.0 percent of such
 21 budget in each fiscal year thereafter.”.

1 (b) STTR.—Section 9(n)(1)(B) of the Small Busi-
2 ness Act (15 U.S.C. 638(n)(1)(B)) is amended—

3 (1) in clause (i), by striking “and” at the end;

4 (2) in clause (ii), by striking “fiscal year 2004
5 and each fiscal year thereafter.” and inserting “each
6 of fiscal years 2004 through 2008; and”; and

7 (3) by adding after clause (ii) the following new
8 clause:

9 “(iii) 0.6 percent for fiscal year 2009
10 and each fiscal year thereafter.”.

11 **SEC. 103. INCREASED SBIR AND STTR AWARD LEVELS.**

12 (a) SBIR AWARD LEVEL.—Section 9(j)(2)(D) of the
13 Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended
14 by striking “\$100,000” and “\$750,000” and inserting
15 “\$300,000” and “\$2,200,000”, respectively.

16 (b) STTR AWARD LEVEL.—Section 9(p)(2)(B)(ix) of
17 the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is
18 amended by striking “\$100,000” and “\$750,000” and in-
19 serting “\$300,000” and “\$2,200,000”, respectively.

20 (c) ANNUAL ADJUSTMENTS.—Section 9 of the Small
21 Business Act (15 U.S.C. 638) is amended—

22 (1) in subsection (j)(2)(D), by striking “and an
23 adjustment of such amounts once every 5 years to
24 reflect economic adjustments and programmatic con-
25 siderations” and inserting “and a mandatory annual

1 adjustment of such amounts to reflect economic ad-
2 justments and programmatic considerations”; and

3 (2) in subsection (p)(2)(B)(ix), by striking
4 “greater or lesser amounts” and inserting “with a
5 mandatory annual adjustment of such amounts to
6 reflect economic adjustments and programmatic con-
7 siderations, and with lesser amounts”.

8 (d) LIMITATION ON CERTAIN AWARDS.—Section 9 of
9 the Small Business Act (15 U.S.C. 638) is amended by
10 adding at the end the following:

11 “(z) LIMITATION ON PHASE I AND II AWARDS.—

12 “(1) IN GENERAL.—No Federal agency shall
13 issue an award under the SBIR program or the
14 STTR program if the size of the award exceeds the
15 amounts established under subsections (j)(2)(D) and
16 (p)(2)(B)(ix), except as provided in paragraph (2).

17 “(2) EXCEPTION.—The prohibition in para-
18 graph (1) does not apply to an agency for a fiscal
19 year if the head of the agency—

20 “(A) notifies the Administrator that the
21 agency intends to issue awards in that fiscal
22 year without regard to the prohibition in
23 paragraph (1); and

24 “(B) reports to the Committee on Small
25 Business and the Committee on Science and

1 Technology of the House of Representatives
2 and the Committee on Small Business and En-
3 trepreneurship of the Senate at least annually
4 the number of instances in which the agency
5 issued an award that exceeds the amounts re-
6 ferred to in paragraph (1) and the justification
7 for each such instance.”.

8 **SEC. 104. ESTABLISHMENT OF SBIR ADVISORY BOARDS.**

9 (a) IN GENERAL.—Section 9 of the Small Business
10 Act (15 U.S.C. 638) is amended by inserting after sub-
11 section (z) the following:

12 “(aa) SBIR ADVISORY BOARDS.—

13 “(1) ADVISORY BOARDS REQUIRED.—Each
14 Federal agency that is required by this section to
15 conduct an SBIR program and that administers an-
16 nually \$50,000,000 or more in SBIR grants shall
17 have an SBIR advisory board.

18 “(2) MEMBERS.—For each advisory board re-
19 quired by paragraph (1), the members of the advi-
20 sory board shall include—

21 “(A) at least two individuals who are em-
22 ployees of the agency;

23 “(B) at least two representatives of private
24 sector technology firms; and

1 “(C) such other individuals as the agency
2 considers appropriate.

3 “(3) SECURITY CLEARANCES.—Where it is ap-
4 propriate to the work of an advisory board required
5 by paragraph (1) that the members and staff of the
6 advisory board have a security clearance, the appro-
7 priate departments and agencies of the executive
8 branch shall cooperate with the advisory board to ex-
9 peditiously provide members and staff with appro-
10 priate security clearances to the extent possible
11 under applicable procedures and requirements.

12 “(4) MEETINGS.—Each advisory board required
13 by paragraph (1) shall meet at least two times per
14 year.

15 “(5) DUTIES.—Each advisory board required
16 by paragraph (1) shall—

17 “(A) review the quarterly reports sub-
18 mitted under subsection (g)(8);

19 “(B) make recommendations to the agency
20 about potential modifications to the agency’s
21 SBIR program that are intended to—

22 “(i) encourage applications, particu-
23 larly applications from small business con-
24 cerns owned and controlled by women,
25 small business concerns owned and con-

1 trolled by minorities, and small business
2 concerns in States and regions that histori-
3 cally receive few SBIR awards; and

4 “(ii) support commercialization of
5 Federal research funded by SBIR awards;
6 and

7 “(C) submit to the Committee on Small
8 Business and the Committee on Science and
9 Technology of the House of Representatives
10 and the Committee on Small Business and En-
11 trepreneurship of the Senate an annual report
12 on the SBIR program conducted by the agency.

13 “(6) CONTENTS OF ANNUAL REPORT.—The an-
14 nual report required by paragraph (5)(C) shall in-
15 clude a description of how that agency’s SBIR pro-
16 gram is functioning and any recommendations of the
17 advisory board for strengthening that agency’s SBIR
18 program. The annual report shall also state the
19 number and dollar amount of awards under the
20 agency’s SBIR program, and under the agency’s
21 STTR program, that were made to small business
22 concerns owned and controlled by women, small
23 business concerns owned and controlled by minori-
24 ties, small business concerns owned and controlled
25 by veterans, and small business concerns in States

1 and regions that historically receive few SBIR
2 awards.

3 “(7) NON-APPLICABILITY OF FACA.—The Fed-
4 eral Advisory Committee Act (5 U.S.C. App.) shall
5 not apply to an advisory board required by para-
6 graph (1).”.

7 (b) AGENCY REPORTS TO SBIR ADVISORY
8 BOARDS.—Section 9(g)(8) of the Small Business Act (15
9 U.S.C. 638(g)(8)) is amended by inserting before the
10 semicolon at the end the following: “and, if the agency
11 is required by subsection (aa) to have an SBIR advisory
12 board, submit a quarterly report on the SBIR program
13 to that SBIR advisory board”.

14 **SEC. 105. INCREASE IN AMOUNT OF TECHNICAL ASSIST-**
15 **ANCE FUNDS AND OPTION TO PURCHASE**
16 **TECHNICAL ASSISTANCE DIRECTLY.**

17 Section 9(q) of the Small Business Act (15 U.S.C.
18 638(q)) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “paragraph (2)” and in-
21 serting “paragraph (2)(A), or another Federal
22 agency under paragraph (2)(B),”;

23 (B) by striking “and” at the end of sub-
24 paragraph (C);

1 (C) by striking the period at the end of
2 subparagraph (D) and inserting “; and”; and

3 (D) by adding at the end the following new
4 subparagraph:

5 “(E) implementing manufacturing proc-
6 esses and production strategies for utilization.”;

7 (2) by amending paragraph (2) to read as fol-
8 lows:

9 “(2) ASSISTANCE PROVIDERS.—

10 “(A) VENDOR SELECTION.—Each agency
11 may select a vendor to assist small business
12 concerns to meet the goals listed in paragraph
13 (1) for a term not to exceed 3 years. Such se-
14 lection shall be competitive and shall utilize
15 merit-based criteria.

16 “(B) INTERAGENCY COLLABORATION.—In
17 addition, each agency may enter into a collabo-
18 rative agreement with the technical extension or
19 assistance programs of other Federal agencies
20 in order to provide the assistance described in
21 paragraph (1).”; and

22 (3) in paragraph (3)—

23 (A) in subparagraph (A) by striking
24 “\$4,000” and inserting “\$5,000”;

1 (B) by amending subparagraph (B) to read
2 as follows:

3 “(B) SECOND PHASE.—Each agency re-
4 ferred to in paragraph (1) may provide directly,
5 or authorize any second phase SBIR award re-
6 cipient to purchase with funds available from
7 their SBIR awards, services described in para-
8 graph (1), in an amount equal to not more than
9 \$8,000 per year, per award.”; and

10 (C) by adding at the end the following:

11 “(C) AUTHORITY TO OPT OUT.—The Ad-
12 ministrator shall establish guidelines under
13 which an award recipient eligible to receive
14 services under subparagraph (A) may decline
15 those services and receive instead an amount
16 equal to not more than \$2,500, which shall be
17 in addition to the amount of the recipient’s
18 award and which shall be used to purchase
19 services described in paragraph (1).”.

20 **SEC. 106. INCREASED NUMBER OF RESEARCH TOPIC SO-**
21 **LICITATIONS ANNUALLY AND SHORTENED**
22 **PERIOD FOR FINAL DECISIONS ON APPLICA-**
23 **TIONS.**

24 (a) INCREASED NUMBER OF RESEARCH TOPIC SO-
25 LICITATIONS.—Section 9(g)(2) of the Small Business Act

1 (15 U.S.C. 638(g)(2)) is amended by inserting before the
2 semicolon at the end the following: “, but not less often
3 than twice per year”.

4 (b) SHORTENED PERIOD FOR FINAL DECISIONS ON
5 APPLICATIONS.—Section 9(g)(4) of that Act (15 U.S.C.
6 638(g)(4)) is amended—

7 (1) by inserting before the semicolon at the end
8 the following: “: *Provided*, That if the agency is re-
9 quired by subsection (aa) to have an SBIR advisory
10 board—”; and

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

12 “(A) a final decision on each proposal shall
13 be rendered not later than 90 days after the
14 date on which the solicitation closes;

15 “(B) the SBIR advisory board may, on a
16 case by case basis, extend the 90 days to 180
17 days; and

18 “(C) the SBIR advisory board shall include
19 in each annual report to Congress under sub-
20 section (aa) a statement identifying how many
21 times a decision was not rendered in 90 days,
22 how many times an extension was granted, and
23 how many times a decision was not rendered in
24 180 days;”.

1 **SEC. 107. INCLUSION OF ENERGY-RELATED RESEARCH**
2 **TOPICS AND RARE-DISEASE-RELATED RE-**
3 **SEARCH TOPICS AS DESERVING “SPECIAL**
4 **CONSIDERATION” AS SBIR RESEARCH TOP-**
5 **ICS.**

6 Section 9(g)(3) of the Small Business Act (15 U.S.C.
7 638(g)(3)) is amended—

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

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

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

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

20 “(D) the National Institutes of Health, in
21 the annual report on the rare diseases research
22 activities of the National Institutes of Health
23 for fiscal year 2005, and in subsequent reports
24 issued by the National Institutes of Health on
25 rare diseases research activities; or”.

1 **SEC. 108. AGENCIES SHOULD FUND VITAL R&D PROJECTS**
2 **WITH THE POTENTIAL FOR COMMERCIALIZA-**
3 **TION.**

4 Section 9(j)(2) of the Small Business Act (15 U.S.C.
5 638(j)(2)), as amended by section 103, is further amend-
6 ed—

7 (1) in subparagraph (H) by striking “and” at
8 the end;

9 (2) in subparagraph (I) by striking the period
10 at the end and inserting “; and”; and

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

12 “(J) procedures to ensure that the Admin-
13 istrator, on an annual basis, submits to the
14 Committee on Small Business and the Com-
15 mittee on Science and Technology of the House
16 of Representatives and the Committee on Small
17 Business and Entrepreneurship of the Senate a
18 list identifying each small business concern
19 that, for the period covered by the preceding 5
20 fiscal years, received 15 or more first phase
21 SBIR awards and no second phase SBIR
22 awards.”.

1 **SEC. 109. 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(j) of the Small Business Act (15 U.S.C.
6 638(j)) is amended by adding at the end the following:

7 “(4) REQUIREMENTS RELATING TO FEDERAL
8 AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE
9 SBIR AWARDEES.—The Administrator shall modify
10 the policy directives issued pursuant to this sub-
11 section to provide for each Federal agency required
12 by this section to conduct an SBIR program to en-
13 gage with SBIR awardees that have been awarded
14 multiple first phase SBIR awards but have not been
15 awarded any second phase SBIR awards and to de-
16 velop performance metrics to measure awardee pro-
17 gression in the SBIR program.”.

18 **SEC. 110. LIMITATION ON CERTAIN AWARDS.**

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

21 “(bb) SUBSEQUENT PHASES.—

22 “(1) IN GENERAL.—A small business concern
23 which received an award from a Federal agency
24 under this section shall be eligible to receive an
25 award for a subsequent phase from another Federal
26 agency, if the head of each relevant Federal agency

1 makes a written determination that the topics of the
2 relevant awards are the same.

3 “(2) CROSSOVER BETWEEN PROGRAMS.—A
4 small business concern which received an award
5 under this section under the SBIR program or the
6 STTR program may, at the discretion of the grant-
7 ing agency, receive an award under this section for
8 a subsequent phase in either the SBIR program or
9 the STTR program.

10 “(3) PHASE II SBIR APPLICATIONS.—An agency
11 may permit an applicant to apply directly for a
12 Phase II award, as described in subsection
13 (e)(4)(B), without first completing a Phase I award,
14 as described in subsection (e)(4)(A), if the applicant
15 can demonstrate that project feasibility was achieved
16 without SBIR or other Federal funding.

17 “(4) PHASE II STTR APPLICATIONS.—An agen-
18 cy may permit an applicant to submit proposals for
19 Phase II awards, as described in subsection
20 (e)(6)(B), without first completing a Phase I award,
21 as described in subsection (e)(6)(A), if the applicant
22 can demonstrate it has accomplished Phase I
23 through cooperative research and development
24 achieved without STTR or other Federal funding.

1 “(cc) WAIVER OF MINIMUM WORK REQUIREMENT.—
2 A Federal agency making an SBIR or STTR award under
3 this section may waive the minimum small business con-
4 cern or research institution work requirements under sub-
5 section (e)(7) if the agency determines that to provide
6 such waiver would be consistent with the purposes of this
7 section and consistent with achieving the objectives of the
8 award proposal.”.

9 **SEC. 111. COMPTROLLER GENERAL AUDIT OF HOW FED-**
10 **ERAL AGENCIES CALCULATE EXTRAMURAL**
11 **RESEARCH BUDGETS.**

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

1 **TITLE II—VENTURE CAPITAL**
2 **INVESTMENT STANDARDS**

3 **SEC. 201. ENSURING THAT INNOVATIVE SMALL BUSI-**
4 **NESSES WITH SUBSTANTIAL INVESTMENT**
5 **FROM VENTURE CAPITAL OPERATING COM-**
6 **PANIES ARE ABLE TO PARTICIPATE IN THE**
7 **SBIR PROGRAM.**

8 Section 9(e) of the Small Business Act (15 U.S.C.
9 638(e)) is amended by striking “and” at the end of para-
10 graph (8), striking the period at the end of paragraph (9)
11 and inserting “; and”, and adding at the end the following:

12 “(10) for purposes of determining whether a
13 small business concern is independently owned and
14 operated under section 3(a)(1) or meets the small
15 business size standards instituted under section
16 3(a)(2), the Administrator shall not consider a busi-
17 ness concern to be affiliated with a venture capital
18 operating company (or with any other business that
19 the venture capital operating company has financed)
20 if—

21 “(A) the venture capital operating com-
22 pany does not own 50 percent or more of the
23 business concern; and

1 “(B) employees of the venture capital oper-
2 ating company do not constitute a majority of
3 the board of directors of the business concern;

4 “(11) a business concern shall be deemed to be
5 ‘independently owned and operated’ if—

6 “(A) it is owned in majority part by one or
7 more natural persons or venture capital oper-
8 ating companies;

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

12 “(C) there is no single venture capital op-
13 erating company the employees of which con-
14 stitute a majority of the board of directors of
15 the business concern; and

16 “(12) the term ‘venture capital operating com-
17 pany’ means a business concern—

18 “(A) that—

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

23 “(ii) is an entity that—

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

4 “(II) is an investment company,
5 as defined in section 3(c)(14) of such
6 Act (15 U.S.C. 80a–3(c)(14)), which
7 is not registered under such Act be-
8 cause it is beneficially owned by less
9 than 100 persons; and

10 “(B) that is not controlled by any business
11 concern that is not a small business concern
12 within the meaning of section 3; and

13 “(C) that has fewer than 500 employees;
14 and

15 “(D) that is itself incorporated and domi-
16 ciled in the United States, or is controlled by a
17 business concern that is incorporated and domi-
18 ciled in the United States.”.

19 **TITLE III—SBIR AND ECONOMIC** 20 **DEVELOPMENT**

21 **SEC. 301. REAUTHORIZATION AND MODERNIZATION OF** 22 **FEDERAL AND STATE TECHNOLOGY PART-** 23 **nership Program (FAST).**

24 Section 9 of the Small Business Act (15 U.S.C. 638)
25 is amended by inserting after subsection (r) the following:

1 “(s) OUTREACH AND SUPPORT ACTIVITIES.—

2 “(1) IN GENERAL.—Subject to the other provi-
3 sions of this subsection, the Administrator shall
4 make grants on a competitive basis to organizations,
5 to be used by the organizations to do one or both
6 of the following:

7 “(A) To conduct outreach efforts to in-
8 crease participation in the programs under this
9 section.

10 “(B) To provide application support and
11 entrepreneurial and business skills support to
12 prospective participants in the programs under
13 this section.

14 “(2) PROGRAM AUTHORITY.—Of the amounts
15 made available to carry out this section for each of
16 fiscal years 2009 through 2010, the Administrator
17 may expend not more than \$10,000,000 in each
18 such fiscal year to carry out paragraph (1).

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

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

1 “(B) shall not exceed \$250,000.

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

6 “(A) Small business concerns located in
7 geographic areas that are underrepresented in
8 the programs under this section.

9 “(B) Small business concerns owned and
10 controlled by women, small business concerns
11 owned and controlled by service-disabled vet-
12 erans, and small business concerns owned and
13 controlled by minorities.

14 “(5) ADVISORY BOARD.—

15 “(A) ESTABLISHMENT.—Not later than 90
16 days after the date of the enactment of this
17 subsection, the Administrator shall establish an
18 advisory board for the activities carried out
19 under this subsection.

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

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

1 “(i) The Administrator (or the Ad-
2 ministrators’ designee).

3 “(ii) For each Federal agency re-
4 quired by this section to conduct an SBIR
5 program, the head of the agency (or the
6 designee of the head of the agency).

7 “(iii) Representatives of small busi-
8 ness concerns that are current or former
9 recipients of SBIR awards, or representa-
10 tives of organizations of such concerns.

11 “(iv) Representatives of service pro-
12 viders of SBIR outreach and assistance, or
13 representatives of organizations of such
14 service providers.

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

17 “(i) To develop guidelines for awards
18 under paragraph (1)(A), including guide-
19 lines relating to award sizes, proposal re-
20 quirements, metrics for monitoring award-
21 ee performance, and metrics for measuring
22 overall value of the activities carried out by
23 the awardees.

24 “(ii) To identify opportunities for co-
25 ordinated outreach, technical assistance,

1 and commercialization activities among
2 Federal agencies, the recipients of the
3 awards under paragraph (1)(A), and appli-
4 cants and recipients of SBIR awards, in-
5 cluding opportunities such as—

6 “(I) podcasting or webcasting for
7 conferences, training workshops, and
8 other events;

9 “(II) shared online resources to
10 match prospective applicants with the
11 network of paragraph (1)(A) recipi-
12 ents; and

13 “(III) venture capital conferences
14 tied to technologies and sectors that
15 cross agencies.

16 “(iii) To review and recommend revi-
17 sions to activities under paragraph (1)(A).

18 “(iv) To submit to the Committee on
19 Small Business and Entrepreneurship of
20 the Senate and the Committee on Small
21 Business and the Committee on Science
22 and Technology of the House of Represent-
23 atives an annual report on the activities
24 carried out under paragraph (1)(A) and

1 the effectiveness and impact of those ac-
2 tivities.

3 “(6) SELECTION CRITERIA.—In awarding
4 grants under this subsection, the Administrator shall
5 use selection criteria developed by the advisory board
6 established under paragraph (5). The criteria shall
7 include—

8 “(A) criteria designed to give preference to
9 applicants who propose to carry out activities
10 that will reach either an underperforming geo-
11 graphic area or an underrepresented population
12 group (as measured by the number of SBIR ap-
13 plicants);

14 “(B) criteria designed to give preference to
15 applicants who propose to carry out activities
16 that complement, and are integrated into, the
17 existing public-private innovation support sys-
18 tem for the targeted region or population; and

19 “(C) criteria designed to give preference to
20 applicants who propose to measure the effec-
21 tiveness of the proposed activities.

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

1 “(A) SBIR program managers for agencies
2 required by this section to conduct SBIR pro-
3 grams; and

4 “(B) private individuals and organizations
5 that are knowledgeable about SBIR, the innova-
6 tion process, technology commercialization, and
7 State and regional technology-based economic
8 development programs.

9 “(8) PER-STATE LIMITATIONS.—

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

24 “(B) LIMITATION.—Each fiscal year, a
25 Governor may have in effect not more than one

1 written endorsement for a grant under para-
2 graph (1)(A), and not more than one written
3 endorsement for a grant under paragraph
4 (1)(B).

5 “(9) SPECIFIC REQUIREMENTS FOR FAST
6 AWARDS.—In making awards under paragraph
7 (1)(A) (to be known as ‘FAST’ awards) the Admin-
8 istrator shall ensure the following:

9 “(A) GOALS.—Priority shall be given ap-
10 plications that address one or more of the fol-
11 lowing goals:

12 “(i) Increasing the number of SBIR
13 applications from underperforming geo-
14 graphic areas (as measured by the number
15 of SBIR applicants).

16 “(ii) Increasing the number of SBIR
17 applications from underrepresented popu-
18 lation groups (as measured by the number
19 of SBIR applicants).

20 “(B) DURATION.—Each award shall be for
21 a period of 2 fiscal years. The Administrator
22 shall establish rules and performance goals for
23 the disbursement of funds for the second fiscal
24 year, and funds shall not be disbursed to a re-
25 cipient for such a fiscal year until after the ad-

1 visory board established under this subsection
2 has determined that the recipient is in compli-
3 ance with the rules and performance goals.”.

4 **SEC. 302. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**
5 **LEASE CONTACT INFORMATION TO ECO-**
6 **NOMIC DEVELOPMENT ORGANIZATIONS.**

7 Section 9 of the Small Business Act (15 U.S.C. 638)
8 is amended in subsection (s) (as added by this title) by
9 adding at the end the following:

10 “(5) CONSENT TO RELEASE CONTACT INFORMA-
11 TION TO ORGANIZATIONS.—

12 “(A) ENABLING CONCERN TO GIVE CON-
13 SENT.—Each Federal agency required by this
14 section to conduct an SBIR program shall en-
15 able a small business concern that is an SBIR
16 applicant to indicate to the agency whether the
17 agency has its consent to—

18 “(i) identify the concern to appro-
19 priate local and State-level economic devel-
20 opment organizations as an SBIR appli-
21 cant; and

22 “(ii) release the concern’s contact in-
23 formation to such organizations.

24 “(B) RULES.—The Administrator shall es-
25 tablish rules to implement this paragraph. The

1 rules shall include a requirement that the agen-
2 cy include in its SBIR application forms a pro-
3 vision through which the applicant can indicate
4 consent for purposes of subparagraph (A).”.

5 **TITLE IV—ADVANCING COMMER-**
6 **CIALIZATION OF SBIR—FUND-**
7 **ED RESEARCH**

8 **SEC. 401. CLARIFYING THE DEFINITION OF “PHASE**
9 **THREE”.**

10 Section 9(e) of the Small Business Act (15 U.S.C.
11 638(e)) is amended—

12 (1) in paragraph (4)(C)—

13 (A) in the matter preceding clause (i) by
14 inserting after “a third phase” the following: “,
15 which shall consist of work that derives from,
16 extends, or logically concludes efforts performed
17 under prior SBIR funding agreements (which
18 may be referred to as ‘Phase III’)”; and

19 (B) in clause (i) by inserting after “non-
20 SBIR Federal funding awards” the following:
21 “: *Provided*, That for purposes of this clause,
22 such sources of capital and such funding
23 awards include private investment, private re-
24 search, development, testing, and evaluation
25 (RDT&E) awards, private sales or licenses, gov-

1 ernment RDT&E contracts and awards, and
2 government sales”;

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

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

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

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

13 **SEC. 402. AGENCY RESEARCH GOALS.**

14 Section 9 of the Small Business Act (15 U.S.C. 638)
15 is amended by striking subsection (h) and inserting the
16 following:

17 “(h) AGENCY RESEARCH GOALS.—

18 “(1) IN GENERAL.—In addition to the require-
19 ments of subsection (f), each Federal agency that is
20 required by this section to have an SBIR program
21 and that awards annually \$5,000,000,000 or more
22 in procurement contracts shall, effective for fiscal
23 year 2009 and each fiscal year thereafter, establish
24 annual goals for commercialization of projects fund-
25 ed by SBIR awards.

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

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

7 “(B) The percentage of SBIR projects that
8 are successfully integrated into a program of
9 record.

10 “(C) The amount of Federal dollars re-
11 ceived by SBIR projects through Federal con-
12 tracts, not including dollars received through
13 the SBIR program.

14 “(3) SUBMISSION TO ADVISORY BOARD.—For
15 each fiscal year for which goals are required by
16 paragraph (1), the agency shall submit to the agen-
17 cy’s SBIR advisory board—

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

20 “(B) not later than 90 days after the end
21 of the fiscal year, data on the extent to which
22 the goals were met and a description of the
23 methodology used to collect that data.”.

1 **SEC. 403. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**
2 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**
3 **FUNDED PROJECTS.**

4 Section 9(j) of the Small Business Act (15 U.S.C.
5 638(j)) is amended by adding after paragraph (4) (as
6 added by section 109) the following:

7 “(5) REQUIREMENTS RELATING TO ADDI-
8 TIONAL SECOND PHASE SBIR AWARDS.—The Admin-
9 istrator shall modify the policy directives issued pur-
10 suant to this subsection to provide the following:

11 “(A) A small business concern that re-
12 ceives a second phase SBIR award for a project
13 remains eligible to receive additional second
14 phase SBIR awards.

15 “(B) Agencies are expressly authorized to
16 provide additional second phase SBIR awards
17 for testing and evaluation assistance for the in-
18 sertation of SBIR technologies into technical or
19 weapons systems.

20 “(C) Each agency that is required by sub-
21 section (aa) to have an SBIR advisory board
22 shall include in the quarterly reports submitted
23 under subsection (g)(8) the number of projects
24 that have received additional second phase
25 SBIR awards and the total dollar amount of
26 those additional second phase SBIR awards.”.

1 **SEC. 404. INCREASED PARTNERSHIPS BETWEEN SBIR**
2 **AWARDEES AND PRIME CONTRACTORS, VEN-**
3 **TURE CAPITAL INVESTMENT COMPANIES,**
4 **AND LARGER BUSINESSES.**

5 Section 9(j) of the Small Business Act (15 U.S.C.
6 638(j)) is amended by adding after paragraph (5) (as
7 added by section 403) the following:

8 “(6) INCREASED PARTNERSHIPS.—Each agency
9 required by this section to conduct an SBIR pro-
10 gram shall establish initiatives by which the agency
11 encourages partnerships between SBIR awardees
12 and prime contractors, venture capital investment
13 companies, and larger businesses, for the purpose of
14 facilitating the progress of the SBIR awardees to
15 the third phase. If the agency is required by sub-
16 section (aa) to have an SBIR advisory board, the
17 advisory board shall include in each report submitted
18 under subsection (aa) a description of the initiatives
19 established and an assessment of the effectiveness of
20 such initiatives.”.

21 **SEC. 405. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**
22 **TWO AWARDS FOR PROMISING PHASE ONE**
23 **RESEARCH.**

24 Section 9(j)(2)(G) of the Small Business Act (15
25 U.S.C. 638(j)(2)(G)) is amended by inserting before the
26 semicolon at the end the following: “, and to encourage

1 agencies to develop ‘fast-track’ programs to eliminate that
2 delay by issuing second phase SBIR awards as soon as
3 practicable, including in appropriate cases simultaneously
4 with the issuance of the first phase SBIR award”.

5 **SEC. 406. COMMERCIALIZATION PROGRAMS.**

6 Section 9(j) of the Small Business Act (15 U.S.C.
7 638(j)) is amended by adding after paragraph (6) (as
8 added by section 404) the following:

9 “(7) COMMERCIALIZATION PROGRAMS.—Each
10 agency required by this section to conduct an SBIR
11 program shall establish a commercialization program
12 that supports the progress of SBIR awardees to the
13 third phase. The commercialization program may in-
14 clude activities such as partnership databases, part-
15 nership conferences, multiple second phases, men-
16 toring between prime contractors and SBIR award-
17 ees, multiple second phases with matching private
18 investment requirements, jumbo awards, SBIR
19 helpdesks, and transition assistance programs. The
20 agency shall include in its annual report an analysis
21 of the various activities considered for inclusion in
22 the commercialization program and a statement of
23 the reasons why each activity considered was in-
24 cluded or not included, as the case may be. If the
25 agency is required by subsection (aa) to have an

1 SBIR advisory board, the advisory board shall in-
2 clude in each report under subsection (aa) a state-
3 ment identifying the number of SBIR awardees that
4 successfully progressed to the third phase.

5 “(8) 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 sup-
12 port the commercialization programs of such
13 agencies.

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

19 “(C) AUTHORIZATION OF APPROPRIA-
20 TIONS.—There is authorized to be appropriated
21 to the Administrator to carry out this para-
22 graph \$27,500,000 for fiscal year 2009 and
23 each fiscal year thereafter.

24 “(9) FUNDING LIMITATION.—For payment of
25 expenses incurred to administer the commercializa-

1 tion programs described in paragraphs (7) and (8),
2 the head of the agency may use not more than an
3 amount equal to 1 percent of the funds available to
4 the agency pursuant to the Small Business Innova-
5 tion Research program. Such funds—

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

8 “(B) shall not be used for the purpose of
9 funding costs associated with salaries and ex-
10 penses of employees of the United States Gov-
11 ernment.”.

12 **SEC. 407. REPORT ON EFFORTS TO ENHANCE MANUFAC-**
13 **TURING ACTIVITIES.**

14 Section 9(j) of the Small Business Act (15 U.S.C.
15 638(j)) is amended by adding after paragraph (9) (as
16 added by section 406) the following:

17 “(10) **EFFORTS TO ENHANCE MANUFACTURING**
18 **ACTIVITIES.**—If an agency is required by subsection
19 (aa) to have an SBIR advisory board, the advisory
20 board shall include in each report under subsection
21 (aa) a part relating to efforts to enhance manufac-
22 turing activities, which shall include—

23 “(A) a comprehensive description of the
24 actions undertaken each year by the SBIR and

1 STTR programs of that agency in support of
2 Executive Order 13329;

3 “(B) an assessment of the effectiveness of
4 such actions toward enhancing the research and
5 development of manufacturing technologies and
6 processes; and

7 “(C) any recommendations that the pro-
8 gram managers of the SBIR and STTR pro-
9 grams consider appropriate for additional ac-
10 tions to be undertaken in order to increase the
11 effectiveness toward enhancing manufacturing
12 activities within the defense industrial base.”.

13 **TITLE V—SUPPORTING**
14 **PROGRAM UTILIZATION**

15 **SEC. 501. AGENCY DATABASES TO SUPPORT PROGRAM**
16 **EVALUATION.**

17 Section 9(k) of the Small Business Act (15 U.S.C.
18 638(k)) is amended—

19 (1) in paragraph (2)(A)—

20 (A) by striking “and” at the end of clause
21 (ii);

22 (B) by inserting “and” at the end of clause
23 (iii); and

24 (C) by adding at the end the following new
25 clause:

1 “(iv) information on the ownership
2 structure of award recipients, both at the
3 time of receipt of the award and upon com-
4 pletion of the award period;”;

5 (2) by amending paragraph (3) to read as fol-
6 lows:

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

9 “(A) IN GENERAL.—A Federal agency
10 shall not make a Phase I or Phase II payment
11 to a small business concern under this section
12 unless the small business concern has provided
13 all information required under this subsection
14 with respect to the award under which the pay-
15 ment is made, and with respect to any other
16 award under this section previously received by
17 the small business concern or a predecessor in
18 interest to the small business concern.

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

1 “(C) ANNUAL UPDATES UPON TERMI-
2 NATION.—A small business concern receiving an
3 award under this section shall—

4 “(i) in the case of a second phase
5 award, update information in the data-
6 bases required under paragraphs (2) and
7 (6) concerning that award at the termi-
8 nation of the award period;

9 “(ii) in the case of award recipients
10 not described in clause (iii), be requested
11 to voluntarily update such information an-
12 nually thereafter for a period of 5 years;
13 and

14 “(iii) in the case of a small business
15 concern applying for a subsequent first
16 phase or second phase award, be required
17 to update such information annually there-
18 after for a period of 5 years.”; and

19 (3) by adding at the end the following new
20 paragraph:

21 “(6) AGENCY PROGRAM EVALUATION DATA-
22 BASES.—Each Federal agency required to establish
23 an SBIR or STTR program under this section shall
24 develop and maintain, for the purpose of evaluating
25 such programs, a database containing information

1 required to be contained in the database under para-
2 graph (2). Each such database shall be designed to
3 be accessible to other agencies that are required to
4 maintain a database under this paragraph.”.

5 **SEC. 502. AGENCY DATABASES TO SUPPORT TECHNOLOGY**
6 **UTILIZATION.**

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

10 “(7) AGENCY DATABASES TO SUPPORT TECH-
11 NOLOGY UTILIZATION.—Each Federal agency with
12 an SBIR or STTR program shall create and main-
13 tain a technology utilization database, which shall be
14 available to the public and shall contain data sup-
15 plied by the award recipients specifically to help
16 them attract customers for the products and services
17 generated under the SBIR or STTR project, and to
18 attract additional investors and business partners.
19 Each database created under this paragraph shall
20 include information on the other databases created
21 under this paragraph by other Federal agencies.
22 Participation in a database under this paragraph
23 shall be voluntary, except that such participation is
24 required of all award recipients who received supple-

1 mental payments from SBIR and STTR program
2 funds above their initial Phase II award.”.

3 **SEC. 503. 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
8 program.

9 (b) COCHAIRS.—The Director of the Office of Science
10 and Technology Policy and the Director of the National
11 Institute of Standards and Technology shall jointly chair
12 the Interagency Policy Committee.

13 (c) DUTIES.—The Interagency Policy Committee
14 shall review the following issues and make policy rec-
15 ommendations 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

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

5 (d) REPORTS.—The Interagency Policy Committee
6 shall transmit to the Committee on Science and Tech-
7 nology and the Committee on Small Business of the House
8 of Representatives, and to the Committee on Small Busi-
9 ness and Entrepreneurship of the Senate—

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

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

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

19 **SEC. 504. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.**

20 (a) SBIR.—Section 9(g)(3) of the Small Business
21 Act (15 U.S.C. 638(g)(3)), as amended by section 107,
22 is further amended by adding at the end the following new
23 subparagraph:

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

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

7 (b) STTR.—Section 9(o)(1) of the Small Business
8 Act (15 U.S.C. 638(o)(1)) is amended by inserting “, giv-
9 ing special consideration to topics that further 1 or more
10 critical technologies, as identified by the national
11 nanotechnology strategic plan required under section
12 2(c)(4) of the 21st Century Nanotechnology Research and
13 Development Act (15 U.S.C. 7501(c)(4)) and in subse-
14 quent reports issued by the National Science and Tech-
15 nology Council Committee on Technology, focusing on
16 areas of nanotechnology identified in such plan” after “its
17 STTR program”.

18 **SEC. 505. RURAL PREFERENCE.**

19 Section 9 of the Small Business Act (15 U.S.C. 638)
20 is amended by adding at the end the following new sub-
21 section:

22 “(dd) RURAL PREFERENCE.—In making awards
23 under this section, Federal agencies shall give priority to
24 applications so as to increase the number of SBIR and
25 STTR award recipients from rural areas.”.

1 **TITLE VI—IMPLEMENTATION**

2 **SEC. 601. CONFORMING AMENDMENTS TO THE SBIR AND**
3 **STTR POLICY DIRECTIVES.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Administrator of the Small Business Ad-
6 ministration shall promulgate amendments to the SBIR
7 and the STTR Policy Directives to conform such directives
8 to this Act and the amendments made by this Act.

9 **SEC. 602. NATIONAL RESEARCH COUNCIL SBIR STUDY.**

10 Section 108(d) of the Small Business Reauthoriza-
11 tion Act of 2000 is amended—

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

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

○