

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5819

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## AN ACT

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,*

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

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

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 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 award levels.
- Sec. 103. Establishment of SBIR advisory boards.
- Sec. 104. Increase in amount of technical assistance funds and option to purchase technical assistance directly.
- Sec. 105. Increased number of research topic solicitations annually and shortened period for final decisions on applications.
- Sec. 106. Inclusion of energy-related research topics and rare-disease-related research topics as deserving “special consideration” as SBIR research topics.
- Sec. 107. Agencies should fund vital R&D projects with the potential for commercialization.
- Sec. 108. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.
- Sec. 109. Limitation on certain awards.
- Sec. 110. Comptroller General audit of how Federal agencies calculate extramural research budgets.
- Sec. 111. Providing explanations to unsuccessful applicants.

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.
- Sec. 506. Priority for areas that have lost a major source of employment.
- Sec. 507. Veterans preference.
- Sec. 508. Initiative to publicize the SBIR program to veterans.
- Sec. 509. Preference for organizations that are making significant contributions towards energy efficiency.

#### TITLE VI—IMPLEMENTATION

- Sec. 601. Conforming amendments to the SBIR and STTR policy directives.
- Sec. 602. National Research Council SBIR Study.
- Sec. 603. SBIR awardee business operations.
- Sec. 604. Prohibition of awards to aliens unlawfully present in the United States.
- Sec. 605. Prohibition on awards to firms in violation of immigration laws.

## 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 AWARD LEVELS.**

11           (a) SBIR AWARD LEVEL.—Section 9(j)(2)(D) of the  
12 Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended

1 by striking “\$100,000” and “\$750,000” and inserting  
2 “\$300,000” and “\$2,200,000”, respectively.

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

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

9 (1) in subsection (j)(2)(D), by striking “and an  
10 adjustment of such amounts once every 5 years to  
11 reflect economic adjustments and programmatic con-  
12 siderations” and inserting “and a mandatory annual  
13 adjustment of such amounts to reflect economic ad-  
14 justments and programmatic considerations”; and

15 (2) in subsection (p)(2)(B)(ix), by striking  
16 “greater or lesser amounts” and inserting “with a  
17 mandatory annual adjustment of such amounts to  
18 reflect economic adjustments and programmatic con-  
19 siderations, and with lesser amounts”.

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

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

24 “(1) IN GENERAL.—No Federal agency shall  
25 issue an award under the SBIR program or the

1 STTR program if the size of the award exceeds the  
2 amounts established under subsections (j)(2)(D) and  
3 (p)(2)(B)(ix), except as provided in paragraph (2).

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

7 “(A) notifies the Administrator that the  
8 agency intends to issue awards in that fiscal  
9 year without regard to the prohibition in para-  
10 graph (1); and

11 “(B) reports to the Committee on Small  
12 Business and the Committee on Science and  
13 Technology of the House of Representatives  
14 and the Committee on Small Business and En-  
15 trepreneurship of the Senate at least annually  
16 the number of instances in which the agency  
17 issued an award that exceeds the amounts re-  
18 ferred to in paragraph (1) and the justification  
19 for each such instance.”.

20 **SEC. 103. ESTABLISHMENT OF SBIR ADVISORY BOARDS.**

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

24 “(aa) SBIR ADVISORY BOARDS.—

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

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

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

11                   “(B) at least two representatives of private  
12 sector technology firms;

13                   “(C) at least one individual who is a vet-  
14 eran who owns a small business concern owned  
15 and controlled by veterans; and

16                   “(D) such other individuals as the agency  
17 considers appropriate.

18           “(3) SECURITY CLEARANCES.—Where it is ap-  
19 propriate to the work of an advisory board required  
20 by paragraph (1) that the members and staff of the  
21 advisory board have a security clearance, the appro-  
22 priate departments and agencies of the executive  
23 branch shall cooperate with the advisory board to ex-  
24 peditiously provide members and staff with appro-

1        appropriate security clearances to the extent possible  
2        under applicable procedures and requirements.

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

6            “(5) DUTIES.—Each advisory board required  
7        by paragraph (1) shall—

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

10           “(B) make recommendations to the agency  
11        about potential modifications to the agency’s  
12        SBIR program that are intended to—

13            “(i) encourage applications, particu-  
14        larly applications from small business con-  
15        cerns owned and controlled by women,  
16        small business concerns owned and con-  
17        trolled by minorities, small business con-  
18        cerns owned and controlled by service-dis-  
19        abled veterans, and small business con-  
20        cerns in States and regions that histori-  
21        cally receive few SBIR awards; and

22            “(ii) support commercialization of  
23        Federal research funded by SBIR awards;  
24        and

1           “(C) submit to the Committee on Small  
2           Business and the Committee on Science and  
3           Technology of the House of Representatives  
4           and the Committee on Small Business and En-  
5           trepreneurship of the Senate an annual report  
6           on the SBIR program conducted by the agency.

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

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

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

8 **SEC. 104. INCREASE IN AMOUNT OF TECHNICAL ASSIST-**  
9 **ANCE FUNDS AND OPTION TO PURCHASE**  
10 **TECHNICAL ASSISTANCE DIRECTLY.**

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

13 (1) in paragraph (1)—

14 (A) by striking “paragraph (2)” and in-  
15 serting “paragraph (2)(A), or another Federal  
16 agency under paragraph (2)(B),”;

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

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

21 (D) by adding at the end the following new  
22 subparagraph:

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

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

3           “(2) ASSISTANCE PROVIDERS.—

4                 “(A) VENDOR SELECTION.—Each agency  
5       may select a vendor to assist small business  
6       concerns to meet the goals listed in paragraph  
7       (1) for a term not to exceed 3 years. Such se-  
8       lection shall be competitive and shall utilize  
9       merit-based criteria.

10                “(B) INTERAGENCY COLLABORATION.—In  
11       addition, each agency may enter into a collabo-  
12       rative agreement with the technical extension or  
13       assistance programs of other Federal agencies  
14       in order to provide the assistance described in  
15       paragraph (1).”; and

16       (3) in paragraph (3)—

17                 (A) in subparagraph (A) by striking  
18       “\$4,000” and inserting “\$5,000”;

19                 (B) by amending subparagraph (B) to read  
20       as follows:

21                 “(B) SECOND PHASE.—Each agency re-  
22       ferred to in paragraph (1) may provide directly,  
23       or authorize any second phase SBIR award re-  
24       cipient to purchase with funds available from  
25       their SBIR awards, services described in para-

1 graph (1), in an amount equal to not more than  
2 \$8,000 per year, per award.”; and

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

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

13 **SEC. 105. INCREASED NUMBER OF RESEARCH TOPIC SO-**  
14 **LICITATIONS ANNUALLY AND SHORTENED**  
15 **PERIOD FOR FINAL DECISIONS ON APPLICA-**  
16 **TIONS.**

17 (a) INCREASED NUMBER OF RESEARCH TOPIC SO-  
18 LICITATIONS.—Section 9(g)(2) of the Small Business Act  
19 (15 U.S.C. 638(g)(2)) is amended by inserting before the  
20 semicolon at the end the following: “, but not less often  
21 than twice per year”.

22 (b) SHORTENED PERIOD FOR FINAL DECISIONS ON  
23 APPLICATIONS.—Section 9(g)(4) of that Act (15 U.S.C.  
24 638(g)(4)) is amended—

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

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

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

9 “(B) the SBIR advisory board may, on a  
10 case by case basis, extend the 90 days to 180  
11 days; and

12 “(C) the SBIR advisory board shall include  
13 in each annual report to Congress under sub-  
14 section (aa) a statement identifying how many  
15 times a decision was not rendered in 90 days,  
16 how many times an extension was granted, and  
17 how many times a decision was not rendered in  
18 180 days;”.

19 **SEC. 106. INCLUSION OF ENERGY-RELATED RESEARCH**  
20 **TOPICS AND RARE-DISEASE-RELATED RE-**  
21 **SEARCH TOPICS AS DESERVING “SPECIAL**  
22 **CONSIDERATION” AS SBIR RESEARCH TOP-**  
23 **ICS.**

24 Section 9(g)(3) of the Small Business Act (15 U.S.C.  
25 638(g)(3)) is amended—

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

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

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

7                   “(C) the National Academy of Sciences, in  
8                   the final report issued by the ‘America’s Energy  
9                   Future: Technology Opportunities, Risks, and  
10                  Tradeoffs’ project, and in subsequent reports  
11                  issued by the National Academy of Sciences on  
12                  sustainability, energy, and alternative fuels;

13                   “(D) the National Institutes of Health, in  
14                   the annual report on the rare diseases research  
15                   activities of the National Institutes of Health  
16                   for fiscal year 2005, and in subsequent reports  
17                   issued by the National Institutes of Health on  
18                   rare diseases research activities;

19                   “(E) the National Academy of Sciences, in  
20                   the final report issued by the ‘Transit Research  
21                   and Development: Federal Role in the National  
22                   Program’ project and the ‘Transportation Re-  
23                   search, Development and Technology Strategic  
24                   Plan (2006–2010)’ issued by the United States  
25                   Department of Transportation Research and

1 Innovative Technology Administration, and in  
2 subsequent reports issued by the National  
3 Academy of Sciences and United States Depart-  
4 ment of Transportation on transportation and  
5 infrastructure; or”.

6 **SEC. 107. AGENCIES SHOULD FUND VITAL R&D PROJECTS**  
7 **WITH THE POTENTIAL FOR COMMERCIALIZA-**  
8 **TION.**

9 Section 9(j)(2) of the Small Business Act (15 U.S.C.  
10 638(j)(2)), as amended by section 103, is further amend-  
11 ed—

12 (1) in subparagraph (H) by striking “and” at  
13 the end;

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

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

17 “(J) procedures to ensure that the Admin-  
18 istrator, on an annual basis, submits to the  
19 Committee on Small Business and the Com-  
20 mittee on Science and Technology of the House  
21 of Representatives and the Committee on Small  
22 Business and Entrepreneurship of the Senate a  
23 list identifying each small business concern  
24 that, for the period covered by the preceding 5  
25 fiscal years, received 15 or more first phase

1 SBIR awards and no second phase SBIR  
2 awards.”.

3 **SEC. 108. FEDERAL AGENCY ENGAGEMENT WITH SBIR**  
4 **AWARDEES THAT HAVE BEEN AWARDED MUL-**  
5 **TIPLE PHASE ONE AWARDS BUT HAVE NOT**  
6 **BEEN AWARDED PHASE TWO AWARDS.**

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

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

20 **SEC. 109. LIMITATION ON CERTAIN AWARDS.**

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

23 “(bb) SUBSEQUENT PHASES.—

24 “(1) IN GENERAL.—A small business concern  
25 which received an award from a Federal agency

1 under this section shall be eligible to receive an  
2 award for a subsequent phase from another Federal  
3 agency, if the head of each relevant Federal agency  
4 makes a written determination that the topics of the  
5 relevant awards are the same.

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

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

20 “(4) PHASE II STTR APPLICATIONS.—An agen-  
21 cy may permit an applicant to submit proposals for  
22 Phase II awards, as described in subsection  
23 (e)(6)(B), without first completing a Phase I award,  
24 as described in subsection (e)(6)(A), if the applicant  
25 can demonstrate it has accomplished Phase I

1 through cooperative research and development  
2 achieved without STTR or other Federal funding.

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

11 **SEC. 110. COMPTROLLER GENERAL AUDIT OF HOW FED-**  
12 **ERAL AGENCIES CALCULATE EXTRAMURAL**  
13 **RESEARCH BUDGETS.**

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

1 **SEC. 111. PROVIDING EXPLANATIONS TO UNSUCCESSFUL**  
 2 **APPLICANTS.**

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

5 “(dd) PROVIDING EXPLANATIONS TO UNSUCCESS-  
 6 FUL APPLICANTS.—Whenever an entity applies for, but  
 7 does not receive, an award under an SBIR or STTR pro-  
 8 gram under this section, the Federal agency conducting  
 9 the program shall—

10 “(1) in a plain and conspicuous manner, notify  
 11 that entity that it can request an explanation (which  
 12 must be of a constructive nature) of the reasons why  
 13 the entity did not receive the award; and

14 “(2) provide such an explanation to that entity,  
 15 if the entity so requests.”.

16 **TITLE II—VENTURE CAPITAL**  
 17 **INVESTMENT STANDARDS**

18 **SEC. 201. ENSURING THAT INNOVATIVE SMALL BUSI-**  
 19 **NESSES WITH SUBSTANTIAL INVESTMENT**  
 20 **FROM VENTURE CAPITAL OPERATING COM-**  
 21 **PANIES ARE ABLE TO PARTICIPATE IN THE**  
 22 **SBIR PROGRAM.**

23 Section 9(e) of the Small Business Act (15 U.S.C.  
 24 638(e)) is amended by striking “and” at the end of para-  
 25 graph (8), striking the period at the end of paragraph (9)  
 26 and inserting “; and”, and adding at the end the following:

1           “(10) effective only for the SBIR and STTR  
2 programs, notwithstanding any other amendment  
3 made by the SBIR/STTR Reauthorization Act, the  
4 following shall apply:

5           “(A) A business concern that has more  
6 than 500 employees shall not qualify as a small  
7 business concern.

8           “(B) In determining whether a small busi-  
9 ness concern is independently owned and oper-  
10 ated under section 3(a)(1) or meets the small  
11 business size standards instituted under section  
12 3(a)(2), the Administrator shall not consider a  
13 business concern to be affiliated with a venture  
14 capital operating company (or with any other  
15 business that the venture capital operating com-  
16 pany has financed) if—

17           “(i) the venture capital operating  
18 company does not own 50 percent or more  
19 of the business concern; and

20           “(ii) employees of the venture capital  
21 operating company do not constitute a ma-  
22 jority of the board of directors of the busi-  
23 ness concern.

24           “(C) A business concern shall be deemed  
25 to be ‘independently owned and operated’ if—

1           “(i) it is owned in majority part by  
2           one or more natural persons or venture  
3           capital operating companies;

4           “(ii) there is no single venture capital  
5           operating company that owns 50 percent  
6           or more of the business concern; and

7           “(iii) there is no single venture capital  
8           operating company the employees of which  
9           constitute a majority of the board of direc-  
10          tors of the business concern.

11          “(D) If a venture capital operating com-  
12          pany controlled by a business with more than  
13          500 employees (in this subparagraph referred  
14          to as a ‘VCOC under large business control’)  
15          has an ownership interest in a small business  
16          concern that is owned in majority part by ven-  
17          ture capital operating companies, the small  
18          business concern is eligible to receive an award  
19          under the SBIR or STTR program only if—

20               “(i) not more than two VCOCs under  
21               large business control have an ownership  
22               interest in the small business concern;

23               “(ii) the VCOCs under large business  
24               control do not collectively own more than

1                   20 percent of the small business concern;  
2                   and

3                   “(iii) the VCOCs under large business  
4                   control do not collaborate with each other  
5                   to exercise more control over the small  
6                   business concern than they could otherwise  
7                   exercise individually.

8                   “(E) The term ‘venture capital operating  
9                   company’ means a business concern—

10                   “(i) that—

11                   “(I) is a Venture Capital Oper-  
12                   ating Company, as that term is de-  
13                   fined in regulations promulgated by  
14                   the Secretary of Labor; or

15                   “(II) is an entity that—

16                   “(aa) is registered under the  
17                   Investment Company Act of 1940  
18                   (15 U.S.C. 80a-51 et seq.); or

19                   “(bb) is an investment com-  
20                   pany, as defined in section  
21                   3(c)(14) of such Act (15 U.S.C.  
22                   80a-3(c)(14)), which is not reg-  
23                   istered under such Act because it  
24                   is beneficially owned by less than  
25                   100 persons; and

1                   “(ii) that is itself organized or incor-  
2                   porated and domiciled in the United  
3                   States, or is controlled by a business con-  
4                   cern that is incorporated and domiciled in  
5                   the United States.”.

6       **TITLE III—SBIR AND ECONOMIC**  
7                   **DEVELOPMENT**

8       **SEC. 301. REAUTHORIZATION AND MODERNIZATION OF**  
9                   **FEDERAL AND STATE TECHNOLOGY PART-**  
10                  **NERSHIP PROGRAM (FAST).**

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

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

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

19                           “(A) To conduct outreach efforts to in-  
20                           crease participation in the programs under this  
21                           section.

22                           “(B) To provide application support and  
23                           entrepreneurial and business skills support to  
24                           prospective participants in the programs under  
25                           this section.

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

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

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

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

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

18                   “(A) Small business concerns located in  
19                   geographic areas that are underrepresented in  
20                   the programs under this section.

21                   “(B) Small business concerns owned and  
22                   controlled by women, small business concerns  
23                   owned and controlled by service-disabled vet-  
24                   erans, and small business concerns owned and  
25                   controlled by minorities.

1 “(5) ADVISORY BOARD.—

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

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

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

12 “(i) The Administrator (or the Ad-  
13 ministrator’s designee).

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

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

22 “(iv) Representatives of service pro-  
23 viders of SBIR outreach and assistance, or  
24 representatives of organizations of such  
25 service providers.

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

3                   “(i) To develop guidelines for awards  
4                   under paragraph (1)(A), including guide-  
5                   lines relating to award sizes, proposal re-  
6                   quirements, metrics for monitoring award-  
7                   ee performance, and metrics for measuring  
8                   overall value of the activities carried out by  
9                   the awardees.

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

17                           “(I) podcasting or webcasting for  
18                           conferences, training workshops, and  
19                           other events;

20                           “(II) shared online resources to  
21                           match prospective applicants with the  
22                           network of paragraph (1)(A) recipi-  
23                           ents; 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)(A).

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  
10                  and Technology of the House of Represent-  
11                  atives an annual report on the activities  
12                  carried out under paragraph (1)(A) and  
13                  the effectiveness and impact of those ac-  
14                  tivities.

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

20                  “(A) criteria designed to give preference to  
21                  applicants who propose to carry out activities  
22                  that will reach either an underperforming geo-  
23                  graphic area or an underrepresented population  
24                  group (as measured by the number of SBIR ap-  
25                  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  
4 existing public-private innovation support sys-  
5 tem for the targeted region or population;

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

9           “(D) criteria designed to give preference to  
10 applicants who include an SBDC program that  
11 is accredited for its technology services.

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

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

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

23           “(8) PER-STATE LIMITATIONS.—

24           “(A) IN GENERAL.—To be eligible to re-  
25 ceive a grant under this subsection, the appli-

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

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

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

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

1           “(i) Increasing the number of SBIR  
2           applications from underperforming geo-  
3           graphic areas (as measured by the number  
4           of SBIR applicants).

5           “(ii) Increasing the number of SBIR  
6           applications from underrepresented popu-  
7           lation groups (as measured by the number  
8           of SBIR applicants).

9           “(B) DURATION.—Each award shall be for  
10          a period of 2 fiscal years. The Administrator  
11          shall establish rules and performance goals for  
12          the disbursement of funds for the second fiscal  
13          year, and funds shall not be disbursed to a re-  
14          cipient for such a fiscal year until after the ad-  
15          visory board established under this subsection  
16          has determined that the recipient is in compli-  
17          ance with the rules and performance goals.”.

18 **SEC. 302. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**  
19 **LEASE CONTACT INFORMATION TO ECO-**  
20 **NOMIC DEVELOPMENT ORGANIZATIONS.**

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

24                 “(5) CONSENT TO RELEASE CONTACT INFORMA-  
25          TION TO ORGANIZATIONS.—

1           “(A) ENABLING CONCERN TO GIVE CON-  
 2           SENT.—Each Federal agency required by this  
 3           section to conduct an SBIR program shall en-  
 4           able a small business concern that is an SBIR  
 5           applicant to indicate to the agency whether the  
 6           agency has its consent to—

7                   “(i) identify the concern to appro-  
 8                   priate local and State-level economic devel-  
 9                   opment organizations as an SBIR appli-  
 10                  cant; and

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

13           “(B) RULES.—The Administrator shall es-  
 14           tablish rules to implement this paragraph. The  
 15           rules shall include a requirement that the agen-  
 16           cy include in its SBIR application forms a pro-  
 17           vision through which the applicant can indicate  
 18           consent for purposes of subparagraph (A).”.

19 **TITLE IV—ADVANCING COMMERCIALIZATION OF SBIR-FUND-**  
 20 **ED RESEARCH**

22 **SEC. 401. CLARIFYING THE DEFINITION OF “PHASE**  
 23 **THREE”.**

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

1 (1) in paragraph (4)(C)—

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

8 (B) in clause (i) by inserting after “non-  
9 SBIR Federal funding awards” the following:  
10 “: *Provided*, That for purposes of this clause,  
11 such sources of capital and such funding  
12 awards include private investment, private re-  
13 search, development, testing, and evaluation  
14 (RDT&E) awards, private sales or licenses, gov-  
15 ernment RDT&E contracts and awards, and  
16 government sales”;

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

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

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

22 “(10) the term ‘commercialization’ means the  
23 process of developing marketable products or serv-  
24 ices and producing and delivering products or serv-

1       ices for sale (whether by the originating party or by  
2       others) to government or commercial markets.”.

3       **SEC. 402. AGENCY RESEARCH GOALS.**

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

7       “(h) AGENCY RESEARCH GOALS.—

8               “(1) IN GENERAL.—In addition to the require-  
9       ments of subsection (f), each Federal agency that is  
10       required by this section to have an SBIR program  
11       and that awards annually \$5,000,000,000 or more  
12       in procurement contracts shall, effective for fiscal  
13       year 2009 and each fiscal year thereafter, establish  
14       annual goals for commercialization of projects fund-  
15       ed by SBIR awards.

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

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

22                       “(B) The percentage of SBIR projects that  
23       are successfully integrated into a program of  
24       record.

1           “(C) The amount of Federal dollars re-  
2           ceived by SBIR projects through Federal con-  
3           tracts, not including dollars received through  
4           the SBIR program.

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

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

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

15 **SEC. 403. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**  
16 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**  
17 **FUNDED PROJECTS.**

18           Section 9(j) of the Small Business Act (15 U.S.C.  
19 638(j)) is amended by adding after paragraph (4) (as  
20 added by section 109) the following:

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

1           “(A) A small business concern that re-  
2 ceives a second phase SBIR award for a project  
3 remains eligible to receive additional second  
4 phase SBIR awards.

5           “(B) Agencies are expressly authorized to  
6 provide additional second phase SBIR awards  
7 for testing and evaluation assistance for the in-  
8 sertation of SBIR technologies into technical or  
9 weapons systems.

10           “(C) Each agency that is required by sub-  
11 section (aa) to have an SBIR advisory board  
12 shall include in the quarterly reports submitted  
13 under subsection (g)(8) the number of projects  
14 that have received additional second phase  
15 SBIR awards and the total dollar amount of  
16 those additional second phase SBIR awards.”.

17 **SEC. 404. INCREASED PARTNERSHIPS BETWEEN SBIR**  
18 **AWARDEES AND PRIME CONTRACTORS, VEN-**  
19 **TURE CAPITAL INVESTMENT COMPANIES,**  
20 **AND LARGER BUSINESSES.**

21           Section 9(j) of the Small Business Act (15 U.S.C.  
22 638(j)) is amended by adding after paragraph (5) (as  
23 added by section 403) the following:

24           “(6) INCREASED PARTNERSHIPS.—

1           “(A) IN GENERAL.—Each agency required  
2           by this section to conduct an SBIR program  
3           shall establish initiatives by which the agency  
4           encourages partnerships between SBIR award-  
5           ees and prime contractors, venture capital in-  
6           vestment companies, business incubators, and  
7           larger businesses, for the purpose of facilitating  
8           the progress of the SBIR awardees to the third  
9           phase. If the agency is required by subsection  
10          (aa) to have an SBIR advisory board, the advi-  
11          sory board shall include in each report sub-  
12          mitted under subsection (aa) a description of  
13          the initiatives established and an assessment of  
14          the effectiveness of such initiatives.

15          “(B) DEFINITION.—In this paragraph, the  
16          term ‘business incubator’ means an entity that  
17          provides coordinated and specialized services to  
18          entrepreneurial businesses which meet selected  
19          criteria during the businesses’ startup phases,  
20          including providing services such as shared of-  
21          fice space and office services, access to equip-  
22          ment, access to telecommunications and tech-  
23          nology services, flexible leases, specialized man-  
24          agement assistance, access to financing, men-  
25          toring and training services, or other coordi-

1 nated business or technical support services de-  
2 signed to provide business development assist-  
3 ance to entrepreneurial businesses during these  
4 businesses' startup phases.”.

5 **SEC. 405. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**  
6 **TWO AWARDS FOR PROMISING PHASE ONE**  
7 **RESEARCH.**

8 Section 9(j)(2)(G) of the Small Business Act (15  
9 U.S.C. 638(j)(2)(G)) is amended by inserting before the  
10 semicolon at the end the following: “, and to encourage  
11 agencies to develop ‘fast-track’ programs to eliminate that  
12 delay by issuing second phase SBIR awards as soon as  
13 practicable, including in appropriate cases simultaneously  
14 with the issuance of the first phase SBIR award”.

15 **SEC. 406. COMMERCIALIZATION PROGRAMS.**

16 Section 9(j) of the Small Business Act (15 U.S.C.  
17 638(j)) is amended by adding after paragraph (6) (as  
18 added by section 404) the following:

19 “(7) COMMERCIALIZATION PROGRAMS.—Each  
20 agency required by this section to conduct an SBIR  
21 program shall establish a commercialization program  
22 that supports the progress of SBIR awardees to the  
23 third phase. The commercialization program may in-  
24 clude activities such as partnership databases, part-  
25 nership conferences, multiple second phases, men-

1       toring between prime contractors and SBIR award-  
2       ees, multiple second phases with matching private  
3       investment requirements, jumbo awards, SBIR  
4       helpdesks, and transition assistance programs. The  
5       agency shall include in its annual report an analysis  
6       of the various activities considered for inclusion in  
7       the commercialization program and a statement of  
8       the reasons why each activity considered was in-  
9       cluded or not included, as the case may be. If the  
10      agency is required by subsection (aa) to have an  
11      SBIR advisory board, the advisory board shall in-  
12      clude in each report under subsection (aa) a state-  
13      ment identifying the number of SBIR awardees that  
14      successfully progressed to the third phase.

15           “(8) FUNDING FOR COMMERCIALIZATION PRO-  
16      GRAMS.—

17           “(A) IN GENERAL.—From amounts made  
18      available to carry out this paragraph, the Ad-  
19      ministrator may, on petition by agencies re-  
20      quired by this section to conduct an SBIR pro-  
21      gram, transfer funds to such agencies to sup-  
22      port the commercialization programs of such  
23      agencies.

24           “(B) PETITIONS.—The Administrator shall  
25      establish rules for making transfers under sub-

1 paragraph (A). The initial set of rules shall be  
2 promulgated not later than 90 days after the  
3 date of the enactment of this paragraph.

4 “(C) AUTHORIZATION OF APPROPRIA-  
5 TIONS.—There is authorized to be appropriated  
6 to the Administrator to carry out this para-  
7 graph \$27,500,000 for fiscal year 2009 and  
8 each fiscal year thereafter.

9 “(D) MINORITY INSTITUTION PILOT PRO-  
10 GRAM.—

11 “(i) ESTABLISHMENT.—From  
12 amounts made available to carry out this  
13 subparagraph, the Administrator shall es-  
14 tablish and carry out a pilot program to  
15 make grants to minority institutions that  
16 partner with nonprofit organizations that  
17 have experience developing relationships  
18 between industry, minority institutions,  
19 and other entities, for the purpose of in-  
20 creasing the number of SBIR and STTR  
21 program applications by minority-owned  
22 small businesses.

23 “(ii) APPLICATION.—To be eligible to  
24 receive a grant under the pilot program es-  
25 tablished in clause (i), a minority institu-

1           tion shall submit an application to the Ad-  
2           ministrators at such time, in such manner,  
3           and containing such information and as-  
4           surances as the Administrator may re-  
5           quire.

6           “(iii) MATCHING REQUIREMENT.—As  
7           a condition of a grant under the pilot pro-  
8           gram, the Administrator shall require that  
9           a matching amount be provided from a  
10          source other than the Federal Government  
11          that is equal to the amount of the grant.

12          “(iv) MINORITY INSTITUTION.—In  
13          this subparagraph, the term ‘minority in-  
14          stitution’ has the meaning given that term  
15          in section 365(3) of the Higher Education  
16          Act of 1965 (20 U.S.C. 1067k(3)).

17          “(v) FUNDING.—For each of fiscal  
18          years 2009 through 2012, of the amounts  
19          appropriated pursuant to the authorization  
20          of appropriations in subparagraph (C), up  
21          to \$4,000,000 shall be available to carry  
22          out this subparagraph.

23          “(9) FUNDING LIMITATION.—For payment of  
24          expenses incurred to administer the commercializa-  
25          tion programs described in paragraphs (7) and (8),

1 the head of the agency may use not more than an  
2 amount equal to 1 percent of the funds available to  
3 the agency pursuant to the Small Business Innova-  
4 tion Research program. 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 United States Gov-  
10 ernment.”.

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

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

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

22 “(A) a comprehensive description of the  
23 actions undertaken each year by the SBIR and  
24 STTR programs of that agency in support of  
25 Executive Order No. 13329;

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

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

## 11           **TITLE V—SUPPORTING** 12           **PROGRAM UTILIZATION**

### 13   **SEC. 501. AGENCY DATABASES TO SUPPORT PROGRAM** 14           **EVALUATION.**

15          Section 9(k) of the Small Business Act (15 U.S.C.  
16   638(k)) is amended—

17           (1) in paragraph (2)(A)—

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

19                   (ii);

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

21                   (iii); and

22                   (C) by adding at the end the following new  
23           clause:

24                           “(iv) information on the ownership  
25                           structure of award recipients, both at the

1           time of receipt of the award and upon com-  
2           pletion of the award period;”;

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

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

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

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

23          “(C)    ANNUAL    UPDATES    UPON    TERMI-  
24          NATION.—A small business concern receiving an  
25          award under this section shall—

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

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

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

16          (3) by adding at the end the following new  
17          paragraph:

18          “(6) AGENCY PROGRAM EVALUATION DATA-  
19          BASES.—Each Federal agency required to establish  
20          an SBIR or STTR program under this section shall  
21          develop and maintain, for the purpose of evaluating  
22          such programs, a database containing information  
23          required to be contained in the database under para-  
24          graph (2). Each such database shall be designed to

1 be accessible to other agencies that are required to  
2 maintain a database under this paragraph.”.

3 **SEC. 502. AGENCY DATABASES TO SUPPORT TECHNOLOGY**  
4 **UTILIZATION.**

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

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

1 **SEC. 503. INTERAGENCY POLICY COMMITTEE.**

2 (a) ESTABLISHMENT.—The Director of the Office of  
3 Science and Technology Policy shall establish an Inter-  
4 agency SBIR/STTR Policy Committee comprised of one  
5 representative from each Federal agency with an SBIR  
6 program.

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

11 (c) DUTIES.—The Interagency Policy Committee  
12 shall review the following issues and make policy rec-  
13 ommendations on ways to improve program effectiveness  
14 and efficiency:

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

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

21 (3) Commercialization assistance best practices  
22 in Federal agencies with significant potential to be  
23 employed by other agencies, and the appropriate  
24 steps to achieve that leverage, as well as proposals  
25 for new initiatives to address funding gaps business

1 concerns face after Phase II but before commer-  
2 cialization.

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

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

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

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

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

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

22 “(F) the national nanotechnology strategic  
23 plan required under section 2(c)(4) of the 21st  
24 Century Nanotechnology Research and Develop-  
25 ment Act (15 U.S.C. 7501(c)(4)) and in subse-

1           quent reports issued by the National Science  
2           and Technology Council Committee on Tech-  
3           nology, focusing on areas of nanotechnology  
4           identified in such plan;”.

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

16 **SEC. 505. RURAL PREFERENCE.**

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

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

1 **SEC. 506. PRIORITY FOR AREAS THAT HAVE LOST A MAJOR**  
2 **SOURCE OF EMPLOYMENT.**

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

5 “(ee) PRIORITY FOR AREAS THAT HAVE LOST A  
6 MAJOR SOURCE OF EMPLOYMENT.—In making awards  
7 under this section, Federal agencies shall give priority to  
8 applications from companies located in geographic areas  
9 that, as determined by the Administrator, have lost a  
10 major source of employment. Not later than 90 days after  
11 the date of the enactment of this subsection, the Adminis-  
12 trator shall promulgate rules for making the determina-  
13 tion required by this subsection.”.

14 **SEC. 507. VETERANS PREFERENCE.**

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

17 “(ff) VETERANS PREFERENCE.—In making awards  
18 under this section, Federal agencies shall give priority to  
19 applications from veterans, as defined in section 101(2)  
20 of title 38, United States Code, so as to increase the num-  
21 ber of SBIR and STTR award recipients who are vet-  
22 erans.”.

23 **SEC. 508. INITIATIVE TO PUBLICIZE THE SBIR PROGRAM TO**  
24 **VETERANS.**

25 The Administrator of the Small Business Administra-  
26 tion, in consultation with the Secretary of Veterans Af-

1 fairs, shall develop an initiative to publicize the SBIR pro-  
2 gram to veterans returning from service and encourage  
3 those veterans with applicable technical skills to apply for  
4 SBIR grants.

5 **SEC. 509. PREFERENCE FOR ORGANIZATIONS THAT ARE**  
6 **MAKING SIGNIFICANT CONTRIBUTIONS TO-**  
7 **WARDS ENERGY EFFICIENCY.**

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

10 “(ff) PREFERENCE FOR ORGANIZATIONS THAT ARE  
11 MAKING SIGNIFICANT CONTRIBUTIONS TOWARDS EN-  
12 ERGY EFFICIENCY.—In making awards under this section,  
13 Federal agencies shall give priority to applications so as  
14 to increase the number of SBIR, STTR, and FAST award  
15 recipients from organizations that are making significant  
16 contributions towards energy efficiency, including organi-  
17 zations that are making efforts to reduce their carbon  
18 footprint or are carbon neutral.”.

19 **TITLE VI—IMPLEMENTATION**

20 **SEC. 601. CONFORMING AMENDMENTS TO THE SBIR AND**  
21 **STTR POLICY DIRECTIVES.**

22 Not later than 180 days after the date of enactment  
23 of this Act, the Administrator of the Small Business Ad-  
24 ministration shall promulgate amendments to the SBIR

1 and the STTR Policy Directives to conform such directives  
2 to this Act and the amendments made by this Act.

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

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

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

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

11 **SEC. 603. SBIR AWARDEE BUSINESS OPERATIONS.**

12 Section 9 of the Small Business Act is further  
13 amended by adding at the end the following:

14 “(ee) SBIR AWARDEE BUSINESS OPERATIONS.—

15 “(1) IN GENERAL.—To be eligible to receive an  
16 SBIR award, an awardee must have its primary  
17 business operations in the United States.

18 “(2) DEFINITION.—In this subsection, the term  
19 ‘United States’ includes the District of Columbia,  
20 the Commonwealth of Puerto Rico, and any other  
21 territory or possession of the United States.”.

22 **SEC. 604. PROHIBITION OF AWARDS TO ALIENS UNLAW-  
23 FULLY PRESENT IN THE UNITED STATES.**

24 Section 9 of the Small Business Act is amended by  
25 adding at the end the following:

1       “(ee) PROHIBITION OF AWARDS TO ALIENS UNLAW-  
2 FULLY PRESENT IN THE UNITED STATES.—A concern is  
3 not eligible to receive an award under this section if an  
4 individual who is an alien unlawfully present in the United  
5 States—

6               “(1) has an ownership interest in that concern;  
7       or

8               “(2) has an ownership interest in another con-  
9       cern that itself has an ownership interest in that  
10       concern.”.

11 **SEC. 605. PROHIBITION ON AWARDS TO FIRMS IN VIOLA-**  
12 **TION OF IMMIGRATION LAWS.**

13       Any applicant found, based on a determination by the  
14 Secretary of Homeland Security or the Attorney General  
15 to have engaged in a pattern or practice of hiring, recruit-  
16 ing or referring for a fee, for employment in the United  
17 States an alien knowing the person is an unauthorized  
18 alien shall not be eligible for the receipt of future awards  
19 under section 9 of the Small Business Act.

Passed the House of Representatives April 23, 2008.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5819**

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**AN ACT**

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.