

## SBIR/STTR REAUTHORIZATION ACT

APRIL 18, 2008.—Ordered to be printed

Ms. VELÁZQUEZ, from the Committee on Small Business,  
submitted the following

### R E P O R T

[To accompany H.R. 5819]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

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

(b) TABLE OF CONTENTS.—The table of contents for 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.

## TITLE I—MODERNIZING THE SBIR AND STTR PROGRAMS

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

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

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

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

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

- (1) in subparagraph (B) by striking “and” at the end;
- (2) in subparagraph (C) by striking “in each fiscal year thereafter,” and inserting “in each of fiscal years 1997 through 2008; and” and
- (3) by adding after subparagraph (C) the following:
 

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

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

- (1) in clause (i), by striking “and” at the end;
- (2) in clause (ii), by striking “fiscal year 2004 and each fiscal year thereafter.” and inserting “each of fiscal years 2004 through 2008; and”; and
- (3) by adding after clause (ii) the following new clause:
 

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

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

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

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

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

(1) in subsection (j)(2)(D), by striking “and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations” and inserting “and a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations”; and

(2) in subsection (p)(2)(B)(ix), by striking “greater or lesser amounts” and inserting “with a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations, and with lesser amounts”.

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

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

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

“(2) **EXCEPTION.**—The prohibition in paragraph (1) does not apply to an agency for a fiscal year if the head of the agency—

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

“(B) reports to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate at least annually the number of instances in which the agency issued an award that exceeds the amounts referred to in paragraph (1) and the justification for each such instance.”.

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

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (z) the following:

“(aa) **SBIR ADVISORY BOARDS.**—

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

“(2) **MEMBERS.**—For each advisory board required by paragraph (1), the members of the advisory board shall include—

“(A) at least two individuals who are employees of the agency;

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

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

“(3) **SECURITY CLEARANCES.**—Where it is appropriate to the work of an advisory board required by paragraph (1) that the members and staff of the advisory board have a security clearance, the appropriate departments and agencies of the executive branch shall cooperate with the advisory board to expeditiously provide members and staff with appropriate security clearances to the extent possible under applicable procedures and requirements.

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

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

“(A) review the quarterly reports submitted under subsection (g)(8);

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

“(i) encourage applications, particularly applications from small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, and small business concerns in States and regions that historically receive few SBIR awards; and

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

“(C) submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the SBIR program conducted by the agency.

“(6) CONTENTS OF ANNUAL REPORT.—The annual report required by paragraph (5)(C) shall include a description of how that agency’s SBIR program is functioning and any recommendations of the advisory board for strengthening that agency’s SBIR program. The annual report shall also state the number and dollar amount of awards under the agency’s SBIR program, and under the agency’s STTR program, that were made to small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, small business concerns owned and controlled by veterans, and small business concerns in States and regions that historically receive few SBIR awards.

“(7) NON-APPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an advisory board required by paragraph (1).”.

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

**SEC. 105. INCREASE IN AMOUNT OF TECHNICAL ASSISTANCE FUNDS AND OPTION TO PURCHASE TECHNICAL ASSISTANCE DIRECTLY.**

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

(1) in paragraph (1)—

(A) by striking “paragraph (2)” and inserting “paragraph (2)(A), or another Federal agency under paragraph (2)(B),”;

(B) by striking “and” at the end of subparagraph (C);

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

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

“(E) implementing manufacturing processes and production strategies for utilization.”;

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

“(2) ASSISTANCE PROVIDERS.—

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

“(B) INTERAGENCY COLLABORATION.—In addition, each agency may enter into a collaborative agreement with the technical extension or assistance programs of other Federal agencies in order to provide the assistance described in paragraph (1).”; and

(3) in paragraph (3)—

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

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

“(B) SECOND PHASE.—Each agency referred to in paragraph (1) may provide directly, or authorize any second phase SBIR award recipient to purchase with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$8,000 per year, per award.”; and

(C) by adding at the end the following:

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

**SEC. 106. INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY AND SHORTENED PERIOD FOR FINAL DECISIONS ON APPLICATIONS.**

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

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

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

(2) by adding at the end the following:

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

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

“(C) the SBIR advisory board shall include in each annual report to Congress under subsection (aa) a statement identifying how many times a decision was not rendered in 90 days, how many times an extension was granted, and how many times a decision was not rendered in 180 days;”.

**SEC. 107. INCLUSION OF ENERGY-RELATED RESEARCH TOPICS AND RARE-DISEASE-RELATED RESEARCH TOPICS AS DESERVING “SPECIAL CONSIDERATION” AS SBIR RESEARCH TOPICS.**

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

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

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

(3) by adding at the end the following:

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

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

**SEC. 108. AGENCIES SHOULD FUND VITAL R&D PROJECTS WITH THE POTENTIAL FOR COMMERCIALIZATION.**

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

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

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

(3) by adding at the end the following:

“(J) procedures to ensure that the Administrator, on an annual basis, submits to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a list identifying each small business concern that, for the period covered by the preceding 5 fiscal years, received 15 or more first phase SBIR awards and no second phase SBIR awards.”.

**SEC. 109. FEDERAL AGENCY ENGAGEMENT WITH SBIR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE ONE AWARDS BUT HAVE NOT BEEN AWARDED PHASE TWO AWARDS.**

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

“(4) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR AWARDEES.—The Administrator shall modify the policy directives issued pursuant to this subsection to provide for each Federal agency required by this section to conduct an SBIR program to engage with SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and to develop performance metrics to measure awardee progression in the SBIR program.”.

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

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

“(bb) SUBSEQUENT PHASES.—

“(1) IN GENERAL.—A small business concern which received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency makes a written determination that the topics of the relevant awards are the same.

“(2) CROSSOVER BETWEEN PROGRAMS.—A small business concern which received an award under this section under the SBIR program or the STTR program may, at the discretion of the granting agency, receive an award under this section for a subsequent phase in either the SBIR program or the STTR program.

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

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

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

**SEC. 111. COMPTROLLER GENERAL AUDIT OF HOW FEDERAL AGENCIES CALCULATE EXTRAMURAL RESEARCH BUDGETS.**

The Comptroller General of the United States shall carry out a detailed audit of how Federal agencies calculate extramural research budgets for purposes of calculating the size of the agencies’ Small Business Innovation Research and Small Business Technology Transfer budgets. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the results of the audit.

## **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.**

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

“(10) effective only for the SBIR and STTR programs, and notwithstanding any provision in section 3 to the contrary, the following shall apply:

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

“(B) In determining whether a small business concern is independently owned and operated under section 3(a)(1) or meets the small business size standards instituted under section 3(a)(2), the Administrator shall not consider a business concern to be affiliated with a venture capital operating company (or with any other business that the venture capital operating company has financed) if—

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

“(ii) employees of the venture capital operating company do not constitute a majority of the board of directors of the business concern.

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

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

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

“(iii) there is no single venture capital operating company the employees of which constitute a majority of the board of directors of the business concern.

“(D) To be eligible to receive an award under the SBIR or STTR program, a small business concern may not have an ownership interest by more than one venture capital operating company controlled by a business with more than 500 employees, and that venture capital operating company may not own more than 10 percent of that small business concern.

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

“(i) that—

“(I) is a Venture Capital Operating Company, as that term is defined in regulations promulgated by the Secretary of Labor; or

“(II) is an entity that—

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

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

“(iii) that is itself organized or incorporated and domiciled in the United States, or is controlled by a business concern that is incorporated and domiciled in the United States.”.

## **TITLE III—SBIR AND ECONOMIC DEVELOPMENT**

### **SEC. 301. REAUTHORIZATION AND MODERNIZATION OF FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM (FAST).**

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

“(s) OUTREACH AND SUPPORT ACTIVITIES.—

“(1) IN GENERAL.—Subject to the other provisions of this subsection, the Administrator shall make grants on a competitive basis to organizations, to be used by the organizations to do one or both of the following:

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

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

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

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

“(A) shall be equal to the total amount of matching funds from non-Federal sources provided by the organization; and

“(B) shall not exceed \$250,000.

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

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

“(B) Small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and controlled by minorities.

“(5) ADVISORY BOARD.—

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

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

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

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

“(ii) For each Federal agency required by this section to conduct an SBIR program, the head of the agency (or the designee of the head of the agency).

“(iii) Representatives of small business concerns that are current or former recipients of SBIR awards, or representatives of organizations of such concerns.

“(iv) Representatives of service providers of SBIR outreach and assistance, or representatives of organizations of such service providers.

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

“(i) To develop guidelines for awards under paragraph (1)(A), including guidelines relating to award sizes, proposal requirements, metrics for monitoring awardee performance, and metrics for measuring overall value of the activities carried out by the awardees.

“(ii) To identify opportunities for coordinated outreach, technical assistance, and commercialization activities among Federal agencies, the recipients of the awards under paragraph (1)(A), and applicants and recipients of SBIR awards, including opportunities such as—

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

“(II) shared online resources to match prospective applicants with the network of paragraph (1)(A) recipients; and

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

“(iii) To review and recommend revisions to activities under paragraph (1)(A).

“(iv) To submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science and Technology of the House of Representatives an annual report on the activities carried out under paragraph (1)(A) and the effectiveness and impact of those activities.

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

“(A) criteria designed to give preference to applicants who propose to carry out activities that will reach either an underperforming geographic area or an underrepresented population group (as measured by the number of SBIR applicants);

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

“(C) criteria designed to give preference to applicants who propose to measure the effectiveness of the proposed activities.

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

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

“(B) private individuals and organizations that are knowledgeable about SBIR, the innovation process, technology commercialization, and State and regional technology-based economic development programs.

“(8) PER-STATE LIMITATIONS.—

“(A) IN GENERAL.—To be eligible to receive a grant under this subsection, the applicant must have the written endorsement of the Governor of the State where the targeted regions or populations are located (if the regions or populations are located in more than one State, the applicant must have the written endorsement of the Governor of each such State). Such an endorsement must indicate that the Governor will ensure that the activities to be carried out under the grant will be integrated with the balance of the State’s portfolio of investments to help small business concerns commercialize technology.

“(B) LIMITATION.—Each fiscal year, a Governor may have in effect not more than one written endorsement for a grant under paragraph (1)(A), and not more than one written endorsement for a grant under paragraph (1)(B).

“(9) SPECIFIC REQUIREMENTS FOR FAST AWARDS.—In making awards under paragraph (1)(A) (to be known as ‘FAST’ awards) the Administrator shall ensure the following:

“(A) GOALS.—Priority shall be given applications that address one or more of the following goals:

“(i) Increasing the number of SBIR applications from underperforming geographic areas (as measured by the number of SBIR applicants).

“(ii) Increasing the number of SBIR applications from underrepresented population groups (as measured by the number of SBIR applicants).

“(B) DURATION.—Each award shall be for a period of 2 fiscal years. The Administrator shall establish rules and performance goals for the disbursement of funds for the second fiscal year, and funds shall not be disbursed to a recipient for such a fiscal year until after the advisory board established under this subsection has determined that the recipient is in compliance with the rules and performance goals.”

**SEC. 302. OBTAINING SBIR APPLICANT’S CONSENT TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.**

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

“(5) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—



“(A) ENABLING CONCERN TO GIVE CONSENT.—Each Federal agency required by this section to conduct an SBIR program shall enable a small business concern that is an SBIR applicant to indicate to the agency whether the agency has its consent to—

“(i) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant; and

“(ii) release the concern’s contact information to such organizations.

“(B) RULES.—The Administrator shall establish rules to implement this paragraph. The rules shall include a requirement that the agency include in its SBIR application forms a provision through which the applicant can indicate consent for purposes of subparagraph (A).”.

## **TITLE IV—ADVANCING COMMERCIALIZATION OF SBIR—FUNDED RESEARCH**

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

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

(1) in paragraph (4)(C)—

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

(B) in clause (i) by inserting after “non-SBIR Federal funding awards” the following: “: *Provided*, That for purposes of this clause, such sources of capital and such funding awards include private investment, private research, development, testing, and evaluation (RDT&E) awards, private sales or licenses, government RDT&E contracts and awards, and government sales”;

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

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

and

(4) by adding at the end the following:

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

### **SEC. 402. AGENCY RESEARCH GOALS.**

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

“(h) AGENCY RESEARCH GOALS.—

“(1) IN GENERAL.—In addition to the requirements of subsection (f), each Federal agency that is required by this section to have an SBIR program and that awards annually \$5,000,000,000 or more in procurement contracts shall, effective for fiscal year 2009 and each fiscal year thereafter, establish annual goals for commercialization of projects funded by SBIR awards.

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

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

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

“(C) The amount of Federal dollars received by SBIR projects through Federal contracts, not including dollars received through the SBIR program.

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

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

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

### **SEC. 403. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD SEQUENTIAL PHASE TWO AWARDS FOR SBIR—FUNDED PROJECTS.**

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

“(5) REQUIREMENTS RELATING TO ADDITIONAL SECOND PHASE SBIR AWARDS.—The Administrator shall modify the policy directives issued pursuant to this subsection to provide the following:

“(A) A small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards.

“(B) Agencies are expressly authorized to provide additional second phase SBIR awards for testing and evaluation assistance for the insertion of SBIR technologies into technical or weapons systems.

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

**SEC. 404. INCREASED PARTNERSHIPS BETWEEN SBIR AWARDEES AND PRIME CONTRACTORS, VENTURE CAPITAL INVESTMENT COMPANIES, AND LARGER BUSINESSES.**

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

“(6) INCREASED PARTNERSHIPS.—Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report submitted under subsection (aa) a description of the initiatives established and an assessment of the effectiveness of such initiatives.”.

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

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

**SEC. 406. COMMERCIALIZATION PROGRAMS.**

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

“(7) COMMERCIALIZATION PROGRAMS.—Each agency required by this section to conduct an SBIR program shall establish a commercialization program that supports the progress of SBIR awardees to the third phase. The commercialization program may include activities such as partnership databases, partnership conferences, multiple second phases, mentoring between prime contractors and SBIR awardees, multiple second phases with matching private investment requirements, jumbo awards, SBIR helpdesks, and transition assistance programs. The agency shall include in its annual report an analysis of the various activities considered for inclusion in the commercialization program and a statement of the reasons why each activity considered was included or not included, as the case may be. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a statement identifying the number of SBIR awardees that successfully progressed to the third phase.

“(8) FUNDING FOR COMMERCIALIZATION PROGRAMS.—

“(A) IN GENERAL.—From amounts made available to carry out this paragraph, the Administrator may, on petition by agencies required by this section to conduct an SBIR program, transfer funds to such agencies to support the commercialization programs of such agencies.

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

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this paragraph \$27,500,000 for fiscal year 2009 and each fiscal year thereafter.

“(9) FUNDING LIMITATION.—For payment of expenses incurred to administer the commercialization programs described in paragraphs (7) and (8), the head of the agency may use not more than an amount equal to 1 percent of the funds available to the agency pursuant to the Small Business Innovation Research program. Such funds—

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

“(B) shall not be used for the purpose of funding costs associated with salaries and expenses of employees of the United States Government.”.

**SEC. 407. REPORT ON EFFORTS TO ENHANCE MANUFACTURING ACTIVITIES.**

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

“(10) EFFORTS TO ENHANCE MANUFACTURING ACTIVITIES.—If an agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a part relating to efforts to enhance manufacturing activities, which shall include—

“(A) a comprehensive description of the actions undertaken each year by the SBIR and STTR programs of that agency in support of Executive Order 13329;

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

“(C) any recommendations that the program managers of the SBIR and STTR programs consider appropriate for additional actions to be undertaken in order to increase the effectiveness toward enhancing manufacturing activities within the defense industrial base.”.

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

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

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

(1) in paragraph (2)(A)—

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

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

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

“(iv) information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period;”;

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

“(3) UPDATING INFORMATION FOR DATABASE.—

“(A) IN GENERAL.—A Federal agency shall not make a Phase I or Phase II payment to a small business concern under this section unless the small business concern has provided all information required under this subsection with respect to the award under which the payment is made, and with respect to any other award under this section previously received by the small business concern or a predecessor in interest to the small business concern.

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

“(C) ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving an award under this section shall—

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

“(ii) in the case of award recipients not described in clause (iii), be requested to voluntarily update such information annually thereafter for a period of 5 years; and

“(iii) in the case of a small business concern applying for a subsequent first phase or second phase award, be required to update such information annually thereafter for a period of 5 years.”; and

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

“(6) AGENCY PROGRAM EVALUATION DATABASES.—Each Federal agency required to establish an SBIR or STTR program under this section shall develop and maintain, for the purpose of evaluating such programs, a database containing information required to be contained in the database under paragraph (2). Each such database shall be designed to be accessible to other agencies that are required to maintain a database under this paragraph.”.

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

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

“(7) AGENCY DATABASES TO SUPPORT TECHNOLOGY UTILIZATION.—Each Federal agency with an SBIR or STTR program shall create and maintain a technology utilization database, which shall be available to the public and shall contain data supplied by the award recipients specifically to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors and business partners. Each database created under this paragraph shall include information on the other databases created under this paragraph by other Federal agencies. Participation in a database under this paragraph shall be voluntary, except that such participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award.”.

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

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee comprised of one representative from each Federal agency with an SBIR program.

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

(c) DUTIES.—The Interagency Policy Committee shall review the following issues and make policy recommendations on ways to improve program effectiveness and efficiency:

(1) The public and government databases described in section 9(k)(1) and (2) of the Small Business Act (15 U.S.C. 638(k)(1) and (2)).

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

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

(d) REPORTS.—The Interagency Policy Committee shall transmit to the Committee on Science and Technology and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business and Entrepreneurship of the Senate—

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

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

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

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

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

“(E) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan;”.

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

**SEC. 505. RURAL PREFERENCE.**

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

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

## TITLE VI—IMPLEMENTATION

### SEC. 601. CONFORMING AMENDMENTS TO THE SBIR AND STTR POLICY DIRECTIVES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate amendments to the SBIR and the STTR Policy Directives to conform such directives to this Act and the amendments made by this Act.

### SEC. 602. NATIONAL RESEARCH COUNCIL SBIR STUDY.

Section 108(d) of the Small Business Reauthorization Act of 2000 is amended—

- (1) by striking “of the Senate” and all that follows through “not later than 3” and inserting “of the Senate, not later than 3”; and
- (2) by striking “; and” and all that follows through “update of such report”.

### I. PURPOSE OF THE BILL AND SUMMARY

The SBIR/STTR Reauthorization Act extends for a period of two years the Federal government’s largest small business research and development programs. The legislation modernizes the Small Business Innovation Research (SBIR) program, changing the legislative guidelines and policies in order to update the program in response to the unique challenges facing small research companies and the changing research priorities of Federal agencies.

The Act is aimed at three broad goals. First, the bill seeks to encourage greater participation in SBIR. An increase in the number of small businesses applying for SBIR is critical to the on-going success of the program. Second, the bill permits small companies that are majority-owned by qualifying venture capital firms to participate in the SBIR program. A 2003 ruling by the Small Business Administration (SBA) has made small firms with large investments from venture capital companies ineligible to participate in the SBIR program. The SBA ruling forces many small businesses to choose between accepting investments from venture capital firms and participating in the Federal government’s largest R&D program for small research firms. Third, the bill seeks to encourage and support commercialization initiatives at Federal agencies that administer SBIR programs. Under current law certain Federal agencies have the authority to develop commercialization programs. This bill extends to all agencies the authority to develop programs designed to support the commercialization of SBIR-funded research.

Additionally, the bill seeks to codify in statute the programmatic flexibility that Federal agencies need in order to administer SBIR awards in a manner that is most consistent with the agency’s specific mission. The SBIR policy directive issued by the SBA has provided a great deal of autonomy to the Federal agencies, the bill codifies agency autonomy with respect to administering their SBIR programs. Along with granting to Federal agencies a great degree of autonomy, the bill also requires Federal agencies to establish more concrete goals and objectives with respect to their SBIR programs and directs the agencies to provide Congress with more regular reports.

#### *Encouraging greater participation in SBIR and STTR*

The Act includes a number of provisions designed to encourage more small firms to apply for SBIR and STTR awards. The bill more than doubles the size of SBIR and STTR awards for Phase I and Phase II grants and establishes a 90-day timeline for issuing

a final decision on an SBIR application after the solicitation is closed. The legislation also requires Federal agencies to designate SBIR advisory boards that will provide small businesses a means to raise concerns about the SBIR application process and other issues associated with the unique needs of small research companies.

The legislation establishes a \$10,000,000 federal grant program to reach-out to small firms owned and controlled by women and minorities and small businesses located in areas that are under represented in the SBIR program. Under the grant program established by the bill, the SBA Administrator is instructed to make competitive grants to organizations to conduct outreach efforts to increase participation in the SBIR program and provide application support and entrepreneurial and business skills support for current and prospective participants in the SBIR program. To be eligible for these Federal and State Technology or “FAST” awards, an organization must have the written endorsement of the Governor of the State where the targeted regions or populations are based. Awards made under grant program established by the bill cannot exceed \$250,000 per year and require matching funds from sources other than the Federal government.

*Permitting small companies that are more than 50%-owned by qualifying venture capital firms to participate in SBIR*

The Act includes provisions that establish clear guidelines governing the participation of small businesses with substantial investment from venture capital operating companies in the SBIR program. The provisions will allow a small company that is majority-owned by qualifying venture capital firms<sup>1</sup> to participate in the SBIR program, so long as the small business concerns do not 1) have a single venture capital company owning a majority of the concern or 2) have a venture capital company controlling a majority of the concern’s board of director’s seats.

*Advancing commercialization of SBIR-funded research and development projects*

To support the successful commercialization of SBIR-funded research, the Act permits an agency to grant multiple Phase Two awards and requires agencies to establish initiatives designed to encourage partnerships between SBIR awardees and prime contractors, venture capital investment companies and larger businesses. The legislation also allows an agency to issue a Phase Two award to a qualifying applicant, even if the applicant’s research proposal had not been awarded a Phase One grant.

The Act defines “Phase Three” of the SBIR program and requires agencies to establish commercialization programs that support the progress of SBIR awardees towards “Phase Three” of the SBIR program. The commercialization programs may include activities such as partnership databases, partnership conferences, mentoring initiatives between prime contractors and SBIR awardees, SBIR helpdesks and transition assistance programs. The legislation authorizes appropriation to the Small Business Administration (SBA)

<sup>1</sup>Small companies majority-owned by a single venture capital firm are not be eligible to participate in the SBIR program under the Act.

funds equal to approximately 1% of the SBIR set-aside. The SBA will allocate these funds to agencies to support the commercialization programs that they are required to implement.

*Retains programmatic flexibility*

The Committee's legislation makes these meaningful changes to the SBIR without reducing the programmatic flexibility that is a central feature of the SBIR program as it is currently administered.

## II. BACKGROUND AND NEED FOR LEGISLATION

In 1982, Congress passed the Small Business Innovation Development Act which established the Small Business Innovation Research (SBIR) program. The intent of the Act was to increase government funding of small, innovative companies for the performance of research and development with commercial potential. Supporters of the SBIR program argued that while small companies were highly innovative, such firms were underrepresented in federal R&D activities.

The potential of small companies to be sources of significant innovation led Congress to establish the SBIR program. From the program's original development, however, SBIR has been intended to stimulate technological innovation related to each participating agency's goals and mission, use small businesses for federal R&D needs and increase private sector commercialization of innovations derived from federal R&D expenditures. To meet these objectives, the Act required Federal departments with an extramural research budget of \$100 million or more to set aside a small percentage of their agency's overall research budget and award technology development contracts to small firms. The percentage of R&D activities to be conducted by small firms has increased since the Act was originally passed and now stands at 2.5%.

Currently, eleven agencies have research budgets large enough to require participation in the SBIR program. In 2006, Federal agencies awarded more than \$2 billion to small research firms through the SBIR program. In 2007, the Department of Defense will have awarded more than \$1 billion to small firms for the development of advanced technologies. From the program's inception in FY1983 through FY2006, over \$20 billion in awards have been made for more than 90,000 projects (see chart below). The original program has been extended several times and is scheduled to sunset on September 30, 2008.

A key element of the SBIR program is that it establishes a three-phase development system for participants. During Phase One, participating agencies fund a proposed idea to determine if it has scientific and technical merit and is feasible. Projects that demonstrate potential after the initial endeavor can compete for Phase Two awards (lasting one to two years) to perform the principal R&D. Generally, Phase One and Phase Two awards may not exceed \$100,000 and \$750,000, respectively. A third phase of the program, aimed at the commercialization of a product or process developed in the earlier phases, is intended to be funded by the private sector.

## SBIR PROGRAM: DOLLARS AWARDED AND PROJECTS FUNDED

Fiscal year	Dollars awarded (millions)			Awards		
	Phase I	Phase II	Total	Phase I	Phase II	Total
1983	44.5		44.5	686		686
1984	48.0	60.4	108.4	999	338	1,337
1985	69.1	130.0	199.1	1,397	407	1,804
1986	98.5	199.4	297.9	1,945	564	2,509
1987	109.6	240.9	350.5	2,189	768	2,957
1988	101.9	284.9	389.1	2,013	711	2,724
1989	107.7	321.7	431.9	2,137	749	2,886
1990	118.1	341.8	460.7	2,346	837	3,183
1991	127.9	335.9	483.1	2,553	788	3,341
1992	127.9	371.2	508.4	2,559	916	3,475
1993	154.0	490.7	698.0	2,898	1,141	4,039
1994	220.4	473.6	717.6	3,102	928	4,030
1995	232.1	601.9	834.1	3,085	1,263	4,348
1996	228.9	645.8	916.3	2,841	1,191	4,032
1997	277.6	789.1	1,106.7	3,371	1,404	4,775
1998	262.3	804.4	1,066.7	3,022	1,320	4,342
1999	299.5	797.0	1,096.5	3,334	1,256	4,590
2000	302.0	888.2	1,190.2	3,166	1,330	4,496
2001	317.1	977.3	1,294.4	3,215	1,533	4,748
2002	411.5	1,023.4	1,434.9	4,243	1,577	5,820
2003	445.4	1,214.7	1,660.1	4,465	1,759	6,224
2004	498.7	1,368.7	1,867.4	4,638	2,013	6,651
2005	461.2	1,404.7	1,865.9	4,300	1,871	6,171

Since SBIR's inception in 1983, the program has been the focus of numerous studies, assessments and evaluations. The Government Accountability Office (GAO) has issued a series of reports on the implementation of the Small Business Development Act. The National Academies of Science completed a comprehensive three-year evaluation of the SBIR program in 2007. Additionally, participating federal agencies have also provided assessments of their agency's SBIR program.

*Independent evaluations of the SBIR program*

The Small Business Innovation Development Act directed the Government Accountability Office (GAO) to assess the implementation of the Act. GAO has issued at least nine reports documenting its findings. A 1987 study found that both the evaluation and selection processes were sufficient to "reasonably" ensure awards were based on technical merit. In 1989, GAO reported that agency heads found the SBIR effort to be beneficial and met the organization's R&D needs. A GAO report issued in May 1992 noted that almost two-thirds of the projects already had sales or received additional funding (primarily from the private sector) totaling approximately \$1.1 billion. Another GAO study, released in April 1998, noted that between 35% and 50% of SBIR projects had resulted in sales or additional private sector investment. A more recent report by GAO in June 2005 found that the effort appears to be achieving its goal of "enhanced" participation of small business in the R&D enterprise.

As part of the reauthorization of the SBIR program in 2000, Congress directed the National Research Council (NRC) of the National Academies to "conduct a comprehensive study of how the SBIR program has stimulated technological innovation and used small businesses to meet Federal research and development needs" and to make recommendations with respect to the SBIR program. After more than 3 years of research and analysis, the NRC study re-



leased its assessment of the SBIR program as administered by the five federal agencies that together make up some 96 percent of SBIR program expenditures in July 2007.<sup>2</sup>

The core finding of the study is that the SBIR program is sound in concept and effective in practice. In support of the report's core finding, the NRC concludes that the SBIR program is: 1) stimulating technological innovations, 2) increasing private sector commercialization of innovations, 3) using small business to meet federal research and development needs and 4) providing widely distributed support for innovation activity. Notable among the Academies' key findings are the following conclusions:

*SBIR is Linking Universities to the Public and Private Markets*—Over a third of respondents to the NRC survey reported university involvement in their SBIR project. More than two-thirds of companies reported that at least one founder was previously an academic. About one-third of founders were most recently employed as academics before founding the company. Some 27 percent of projects had university faculty as contractors on the project, 17 percent used universities themselves as subcontractors, and 15 percent employed graduate students.

*SBIR is a Commercial Enabler for Small Firms*—Just over 20 percent of companies responding to the NRC Phase II Recipient Survey indicated that they were founded entirely or partly because of a prospective SBIR award. Companies responding to the same survey reported that over two-thirds of SBIR projects would not have taken place without SBIR funding. Although the data vary by agency, respondents to the Committee's Phase II recipient survey indicate that just under half of the projects do reach the marketplace.

*SBIR is Helping Agencies Meet Their Procurement Needs*—At the Department of Defense, the Navy has achieved significant success in improving the insertion of SBIR-funded technologies into the acquisition process. At DoD, the growing importance of the SBIR program within the defense acquisition system is reflected in the growing interest of prime contractors, who are seeking opportunities to be in support of SBIR projects—a key step toward acquisition.

*SBIR is Providing Widely Distributed Support for Innovation Activity*—During the fourteen years between 1992 and 2005, more than 14,800 firms received at least one Phase II award, according to the SBA's SBIR database. Each year, over one third of the firms awarded SBIR funds participate in the program for the first time.

#### THE NEED TO REAUTHORIZE AND MODERNIZE THE SBIR PROGRAM

Statutory authorization for the SBIR program and the STTR expire on September 30, 2008 and September 30, 2009, respectively. The positive evaluations of the SBIR program issued by independent research organizations and testimony presented to the Committee on Small Business in support of SBIR create the basis of support for H.R. 5819. Small firms, federal agencies, patient organizations, economic development organizations and academics

<sup>2</sup>The agencies examined by the NRC study, in order of program size, are the Department of Defense, the National Institutes of Health, the National Aeronautics and Space Administration, the Department of Energy, and the National Science Foundation.

have testified in strong support of reauthorization of the SBIR and STTR programs.

During the eight years that have elapsed since Congress last passed legislation extending and modernizing the SBIR program, our country's R&D priorities and the role of small innovative companies in the U.S. economy have changed. The manner in which the participating federal agencies administer their SBIR programs has also changed over the last eight years. Reflective of these changes, participating small firms, participating federal agencies, research organizations and other interested parties support modernizing the SBIR program. Specifically, expert witnesses have testified that legislation is necessary in order to make the following important changes to SBIR program.

*Increase SBIR funding level and improve the SBIR application process*

According to SBA data, small businesses employ one-third of the nation's scientists and engineers and produce 13 times more patents per employee than large patenting firms. Despite these and other indications that small firms are the originators of leading-edge technologies and products, only 4.3% of federal R&D dollars go to small companies. Federal R&D dollars administered by the SBIR program account for the majority of the R&D funds that small businesses receive from Federal agencies. Legislation is needed to expand the SBIR program so that small research firms are given a greater opportunity to conduct research and development projects on behalf of the Federal government. The legislation increases to 3% the SBIR share of federal dollars from its current level of 2.5%.

In addition, the legislation makes two significant changes to the administration of the SBIR program designed to help improve the SBIR application process. The bill establishes a 90-day timeline for issuing a final decision on an SBIR application and it directs Federal agencies to designate SBIR advisory boards that will include representatives of small business. These legislative provisions are needed to ensure that SBIR applicants are given a timely final decision on their applications and are provided an avenue to give Federal agencies feedback about how their SBIR programs can better meet the unique needs of small firms.

*Permit multiple SBIR awards*

A number of the participating federal agencies have developed programs whereby they provide additional funding and support—beyond the support specifically delineated in the statute<sup>3</sup>—for small firms that have been awarded SBIR grants and contracts. Agencies posit that the programmatic flexibility provided for in the SBIR policy directive and statute has allowed participating agencies to develop and implement programs aimed at “gap-funding” between award phases and “commercialization assistance.” These programs help small firms advance commercial readiness during and after Phase One and Phase Two awards.

<sup>3</sup>A September 24, 2002 Policy Directive issued by the Small Business Administration allows Federal agencies participating in SBIR flexibility in the operation of their individual SBIR program.

The Act provides Federal agencies the statutory authority to develop and implement multiple awards and gap funding programs designed to meet the unique needs to small firms and entrepreneurs. SBIR companies should be given discretion with The legislation is necessary to ensure that the Small Business Administration does not impose an inflexible cap-on SBIR awards dollar amounts or a prohibition on multiple awards. Changes to the SBIR program, such as these, would undermine initiatives at some Federal agencies that have successfully helped small firms commercialize SBIR-funded research and development.

*Reauthorize and extend DoD Commercialization Pilot Program (CPP)*

Section 252 of the National Defense Authorization Act of FY2006, authorized the Secretary of Defense and the Secretary of each Military Department to establish a Commercialization Pilot Program (CPP). The Act grants military departments authority to establish pilot programs that enhance connectivity among SBIR firms, prime contractors, and DoD science and technology and acquisition communities in order to facilitate effective technology transfer. Authorization for the CPP expires at the end of fiscal year 2009. Legislation is needed to both reauthorize and extend the CPP and to provide other Federal agencies with the authority to develop commercialization initiatives similar to the DoD's CPP.

*Permit small firms that have significant investments from qualified venture capital companies to participate in the SBIR program*

To qualify for SBIR awards, small firms must affirm that they meet certain ownership criteria, such as being 51 percent or more owned by individuals who are U.S. citizens or permanent resident aliens. In 2003, an SBA administrative law judge issued a decision that venture capital firms could not be considered "individuals" for the purpose of satisfying the ownership criteria of the SBIR program. As a result, a number of firms that are majority-owned by venture capital firms that had once been eligible to participate (or did, in fact participate) in the SBIR program before the 2003 ruling are no longer eligible. Small venture-backed companies that have been ruled ineligible for SBIR are unable to secure necessary funding to conduct important research activities.

The ruling created confusion among program participants and has led some firms to steer away from the program. Since 2003, NIH reports that SBIR applications have been decreasing and awards to new applicants are also decreasing. In FY 2006, only about one-fourth of the awardees were new to the program—the lowest proportion in a decade. Many of the small research companies that are rendered ineligible by the SBA's 2003 ruling have fewer than 100 employees and—in the case of small biotechnology companies—no revenue.

While it was asserted that venture-backed small businesses could access research awards through the non-SBIR portion of federal research budgets, this is not the case. While 97.5 percent of federal agency research budgets are not subject to SBIR set-asides, nearly all of this amount (97.1 percent) is awarded to universities. This means that small businesses primary point of access to federal research contracts is through the SBIR program.

Legislation is needed in order to ensure that small firms with significant (a majority) investment from venture capital operating companies can compete for and win SBIR awards. Legislation is also required to prohibit program participation of small business concerns that have a single venture capital company owning a majority of the concern or have a venture capital company controlling a majority of the concern's board of director's seats.

*Reauthorize the Federal and State Technology Partnership Program (FAST)*

The SBIR reauthorization legislation that Congress passed during the 106th Congress included the authorization for funding of a "Federal and State Technology Partnership Program (FAST)". FAST was designed to promote awards in states that do not have a high volume of SBIR awards, and in low-income areas of all states. Authorization for the FAST program expired in 2005. Legislation reauthorizing the FAST program is needed in order to encouraging small businesses that are owned and operated by women and minorities and small businesses located in geographic areas that are under represented in SBIR to apply for SBIR grants.

### III. HEARINGS

In the 110th Congress, the Committee on Small Business convened three hearings on the reauthorization of the SBIR program. On January 29, 2008, the House Committee on Small Business convened a hearing entitled "SBIR: America's Technology Development Incubator." The hearing explored the numerous contributions that the SBIR program makes to national security priorities, economic development objectives and America's international economic competitiveness. On February 13, 2008 the House Committee on Small Business, Subcommittee on Investigations and Oversight convened a hearing entitled "SBIR: Advancing Medical Innovations." The Subcommittee hearing examined the impact of the SBIR program on the development of innovative medical technologies, therapies and products. On March 13, 2008 the Committee on Small Business held a hearing to review a Committee Print of proposed legislation that would reauthorize and modernize the SBIR program.

### IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session on April 17, 2008 at 12:45pm, and ordered H.R. 5819 reported, as amended, to the House by a recorded vote. Only one amendment, offered by Ms. Velázquez, was offered at the markup. That amendment was adopted by voice vote. The bill was ordered reported by a vote of 20-0.

### V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. During committee consideration of the legislation, an amendment was offered by Ms. Velázquez. The amendment was agreed to by voice vote. A motion by Ms. Velázquez to report the bill, as amended, to the House with a favorable recommendation was AGREED to by a vote of 20-0.

**Committee on Small Business  
110<sup>th</sup> Congress –Second Session  
Recorded Vote Sheet**

**Full Committee Markup**

**VOTE ROSTER FOR H.R. 5819**

**FINAL PASSAGE**

**April 17, 2008  
1:08 p.m.  
Room 1539 LHOB**

<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	
<u>X</u>	___	Nydia Velázquez (NY)	<u>X</u>	___	Steve Chabot (OH)
<u>X</u>	___	Heath Shuler (NC)	<u>X</u>	___	Roscoe Bartlett (MD)
___	___	Charles Gonzalez (TX)	<u>X</u>	___	Sam Graves (MO)
___	___	Rick Larsen (WA)	<u>X</u>	___	Todd W. Akin (MO)
<u>X</u>	___	Raúl Grijalva (AZ)	___	___	Bill Shuster (PA)
___	___	Michael Michaud (ME)	<u>X</u>	___	Marilyn Musgrave (CO)
<u>X</u>	___	Melissa Bean (IL)	___	___	Steve King (IA)
<u>X</u>	___	Henry Cuellar (TX)	___	___	Jeff Fortenberry (NE)
<u>X</u>	___	Daniel Lipinski (IL)	___	___	Lynn Westmoreland (GA)
___	___	Gwen Moore (WI)	___	___	Louie Gohmert (TX)
<u>X</u>	___	Jason Altmire (PA)	<u>X</u>	___	David Davis (TN)
<u>X</u>	___	Bruce Braley (IA)	___	___	Mary Fallin (OK)
<u>X</u>	___	Yvette Clarke (NY)	<u>X</u>	___	Vern Buchanan (FL)
<u>X</u>	___	Brad Ellsworth (IN)			
<u>X</u>	___	Henry Johnson (GA)			
<u>X</u>	___	Joe Sestak (PA)			
<u>X</u>	___	Mazie Hirono (HI)			
___	___	Brian Higgins (NY)			

**Total: Yeas 20**

**Nays 0**

## VI. SECTION-BY-SECTION ANALYSIS OF H.R. 5819

## TITLE I "MODERNIZING THE SBIR AND STTR PROGRAMS"

*Sec 101. Extended SBIR and STTR termination date*

The last SBIR reauthorization bill that Congress passed in 2001 and extended the SBIR program for eight years. The length of this authorization did not require Congress to focus its attention on this important research and development program and allowed years to pass between formal Congressional inquiries into the SBIR program's implementation and effectiveness.

This section reauthorizes and extends the SBIR program, which will expire on September 30, 2008, until September 30, 2010. The two-year extension of the SBIR program provides for more regular Congressional oversight and evaluation of the SBIR and STTR programs. The one-year extension of STTR, which is due to expire on September 30, 2009, will encourage Congress to consider and reauthorize these complementary programs at the same time.

*Sec 102. Increased Set Asides for SBIR and STTR Programs*

Since 1997, the SBIR program set aside has remained at 2.5 percent of participating Federal agencies' extramural research budgets. The bill increases the existing SBIR set aside from 2.5% to 3.0% beginning in fiscal year 2009 and each year thereafter. The bill also increases the STTR set aside from 0.3% to 0.6% beginning in fiscal year 2009 and for each year thereafter. The purpose of the provision is to increase funding so that more small firms can participate in and contribute to Federal research and development activities. These higher set-aside levels will also permit agencies to offer more awards given the potential for higher award sizes pursuant to section 103.

*Sec 103. Increased SBIR and STTR grant awards levels and permitted agencies to exceed the grant levels*

Since 1992, the statutory prescriptions for SBIR award amounts have remained unchanged at \$100,000 for a Phase One award and \$750,000 for a Phase Two award. The Section increases the award levels at \$300k for Phase One and \$2.2 million for Phase Two for both the SBIR and STTR programs. The increase, which is greater than a simple indexing for inflation, is intended to encourage more small firms to apply for the awards. The amount designated by the Committee also recognizes the high costs associated with the development of valuable new technologies and therapies.

The section also allows agencies to exceed the award levels that are prescribed in the legislation, if the agencies first notify the SBA and then provide subsequent reporting to Congress. Under current practice, Federal can (with a waiver from the Small Business Administration) exceed the award levels proscribed in the statute. The Committee acknowledges that large awards reduce the total number of small firms that receive awards. The Committee recognizes, however, that the Federal agencies that have exceeded the proscribed award levels are funding research at the level necessary to accomplish the Agencies' goals and supporting commercialization of promising research. As such, the Committee seeks to extend to participating agencies the authority to exceed the proscribed award

levels, with the appropriate notifications and reporting requirements.

*Sec 104. Established SBIR advisory boards at each participating agency*

Section 104 directs Federal agencies to establish or designate an SBIR Advisory Board. The purpose of the SBIR Advisory Boards is to provide SBIR applicants and STTR participants with a means to provide feedback to the agency on how the SBIR application process, technical support, commercialization assistance and other facets of the program might be improved. The SBIR Advisory Boards are also intended to provide an oversight function. The Committee's intent is that Federal agencies will provide the SBIR Advisory Boards with quarterly reports on the agencies' SBIR programs and will respond to questions and recommendations from their SBIR Advisory Boards. The quarterly reports should include information such as agency's outreach efforts, and commercialization assistance. The quarterly reports should also provide the Advisory Board with appropriate SBIR program data, as requested by the Board.

The Advisory Boards will submit a written report to Congress. In this report, the Advisory Board will provide an assessment of the agencies SBIR program, including the agencies efforts to encourage applications and advance commercialization of SBIR-funded research projects. The annual report must also state the number and dollar amount of awards under the agency's SBIR and STTR programs that were made to small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, small business concerns owned and controlled by veterans and small business concerns in States and regions that historically receive few SBIR awards.

*Sec 105. Increased technical assistance funds for Phase One and Phase Two awardees*

The Section increases currently available technical assistance funds for Phase One awardees and Phase Two grantees. The Section also directs Federal agencies to allow Phase One grantees to "opt-out" of the agency's technical assistance program in favor of a \$2,500 payment which shall be in addition to the amount of the awardees grant and which the awardee shall use to purchase technical assistance services. The section also requires agencies to select technical assistance vendors for a term not to exceed three years. The Committee intends the selection of technical assistance vendors to be based on competitive and merit based criteria.

*Sec 106. Required Federal agencies to issue at least two research solicitations each year and must issue annually and requires Federal agencies to render a decision on an SBIR application within 90 days after the solicitation closes*

The intension of the section is to ensure that each agency issues at least two rounds of SBIR research solicitations each year. A single, annual solicitation forces many small firms to wait a year or more to have their SBIR application(s) evaluated. The Committee is concerned that the length of this delay can discourage potential applicants. The Section also directs Federal agencies to render a final decision on each proposal 90 days after the date a solicitation

closes. A clear timeline will allow applicants to better forecast and prepare for receipt of potential SBIR awards. Recognizing that the agencies will not be able to meet with this directive in all cases, the section provides the agencies' SBIR Advisory Boards with the authority to extend the 90-day deadline to a 180-day deadline on a case by case basis.

*Sec 107. Added an energy research report and a rare-disease research report to the list of research reports deserving of special consideration*

The intention of this section is to expand the number of research reports deserving of special attention. The Committee expects that those who are responsible for the creation of SBIR solicitations to give special consideration to the findings of the two important research reports referenced in the section.

*Sec 108. Directed agencies to fund vital R&D projects with the potential for commercialization*

Section calls on the SBA to release to the Committees on Small Business and the House Committee on Science and Technology the names of firms that have received 15 Phase 1 grants and zero Phase 2 grants in a five year period. The intention of the provision is to ensure that the Congressional Committees of jurisdiction have access to data about SBIR awardees that have received a large number of Phase One grants and have not received a Phase Two award.

*Sec 109. Directed the Small Business Administration to develop quality metrics that will help agencies limit awards to so-called 'SBIR Mills'*

The Committee expects that the Administrator of the Small Business Administration shall "develop quality metrics that can assist agencies in developing standards to limit the perceived effect of so-called 'SBIR Mills'."<sup>4</sup> The Committee further expects that the Administrator of the Small Business Administration will incorporate these metrics into the SBIR policy directives.

*Sec 110. Allowed Federal agencies to issue cross-agency awards and allow applicants to apply directly to Phase Two awards*

The intention of the cross-agency award provision is to provide agencies with the authority to issue a Phase Two award to a company that has received a Phase One or Phase Two grant from another Federal agency, so long as the head of each agency makes a written determination that the topics of the relevant awards are the same. The Committee also intends to extend to Federal agencies the authority to grant a Phase Two award for a research project that has not been issued a Phase One award, so long as the applicant can demonstrate it has accomplished Phase One. The purpose of both provisions is to provide agencies with programmatic flexibility such that they can meet the unique needs of small research firms applying for SBIR grants.

<sup>4</sup>From the statement of Administrator Steven C. Preston delivered to the House Committee on Small Business on March 13, 2008.



*Sec. 111 Directs GAO to carry out an audit of processes by which Federal agencies calculate their extramural research budgets*

This provision is intended to improve accountability of the way Federal agencies determine what is “extramural” and what is “intramural”. The Committee is not aware of the existence of independent audits that confirm that the agencies are performing these calculations correctly. A GAO report analyzing this issue will provide more transparency to these calculations.

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*

This provision permits small businesses with majority investment from venture capital companies to participate in the SBIR and STTR program. It reverses a policy that resulted from a 2003 SBA administrative ruling that placed a restriction on such majority venture capital investment. The Committee has found that small businesses engaged in federal research require sufficient sources of external capital to successfully commercialize their research. This is readily apparent in the medical and defense industries, but also in other fields including transportation and energy. As a result, the Committee believes that the overriding policy focus should be on enhancing small firms’ access to financing—including equity investment in the form of venture capital.

The Committee understands that many research companies, in particular those that are small, do not possess positive revenue streams. This makes access to venture capital even more critical, as such investment often does not require an immediate return. This limits the impact on small businesses’ cash flow and increases their ability to carry out their research activities. The Committee also recognizes that Congress has placed significant weight on small SBIR firms’ ability to secure non-federal private funding. This emphasis is clearly apparent in section 9(e)(4)(B)(ii) and 9(e)(4)(C)(i) of the Small Business Act and suggests that reopening sources of external financing such as venture capital is aligned with Congress’s intent in establishing the SBIR program.

To accomplish this, the section specifies that portfolio companies of venture capital companies are not affiliated with the venture capital company itself or other portfolio companies of the same venture capital company for the purposes of the SBIR and STTR program. This treatment for affiliation is sensible for the venture capital industry as employees of one portfolio company do not regularly provide uncompensated services for, nor are they regularly dually employed by, other portfolio companies. In fact, it is not uncommon for portfolio companies of the same venture capital company to be in the same industry sector as other portfolio companies and even compete with one another. As a result, the Committee believes that small business concerns with venture capital investment should not have employees from other portfolio companies of the same venture capital company counted as its own employees.

In addition, this provision deems a small business concern with venture capital investment to be independently owned and operated. The nature of venture capital is to provide investment capital

and not long-term control of a business. The business concern retains day-to-day control over the operations, as well as significant ownership. The venture capital acts as an investor seeking financial profits—not an entity seeking outright ownership and operational control. The Committee finds no evidence that venture capital companies are investing in small business concerns solely to access SBIR funds—rather they are seeking to benefit as an investor in the underlying research. Often a venture capital company divests itself within seven years of its initial investment. As a result, the Committee believes that treating SBIR-eligible small business concerns with venture capital investment as independently owned and operated is appropriate.

In both dealing with the affiliation standard and the independently owned and operated standard, the legislation is limited to small business concerns that: (1) do have a single venture capital company owning a majority of the concern and (2) do not have a venture capital company controlling a majority of the concern's board of director's seats. This ensures that while a majority of a small business concern may be owned by venture capital companies, no single venture capital company can own a majority.

Finally, the legislation defines venture capital company for the purposes of this Act, including requiring that such entity have less than 500 employees and be domiciled in the United States. It also prevents the venture capital operating company from being controlled by a business that is not a small business concern. The Committee does not believe means testing venture capital companies with an asset-based limitation or restricting certain investors because of their personal wealth is appropriate or aligned with the interests of small, high growth, research-oriented businesses. Such constraints serve only to impair the underpinnings of a market-based economy and would impair the free flow of capital to small businesses. Such federal government intervention in the capital markets and such regulation of financial transactions is inconsistent with the needs of small firms participating in the SBIR program.

The amendment adopted by the Committee amends section 201. The amendment clarifies the role that corporate-owned venture capital companies can play when investing in SBIR-eligible companies. Under current law, corporate-owned venture capital companies can invest in SBIR-eligible companies, so long as they do constitute a majority ownership share of the small business concern. The original legislation prevented such investment by corporate-owned venture capital companies and this amendment clarifies that such investment is still permissible subject to certain limitations. The amendment specifies that such a corporate-owned venture capital company can only own up to 10 percent of an SBIR eligible small business concern and that such SBIR eligible small business concern can only have investment from one such corporate-owned venture capital company.

## TITLE III “SBIR AND ECONOMIC DEVELOPMENT”

*Sec 301. Modernized and reauthorized the Federal and State Technology (FAST) Program and expands the program to support application support for eligible small businesses*

The provisions will establish an annual \$10,000,000 competitive grant program where organizations in all fifty states can submit proposals to conduct SBIR outreach efforts and/or application support and business skills development efforts directed at small businesses in underrepresented states and regions, women-, service-disabled veterans- and minority-owned small businesses. The provisions are intended to increase the number of small firms applying for awards, increase the number of small companies owned and controlled by women and minorities that apply for SBIR awards, and encourage economic development organizations to develop effective programs to increase the size of the SBIR economy in their State.

The Committee expects that, not later than 90 days after the date of enactment of this subsection, the Administrator of the Small Business Administration will establish an Advisory Board for the FAST program. The Board will develop guidelines for the administration of the FAST program that are consistent with the statutory direction provided in Title III of HR 5918. The Committee expects that the Advisory Board will serve as stewards of the FAST program and will submit an annual report to Congress on the effectiveness and impact of the program.

*Sec 302. Implemented a voluntary means for SBIR applicants to release their contact information of state and local economic development organizations*

The section directs Federal agencies to enable SBIR applicants to permit the Federal agency to identify the applicant to appropriate local and state-level economic development organizations and release the concern’s contact information to such organizations. The Committee expects that Federal agencies will make necessary changes to the SBIR application forms in order to comply with the requirements of this section. The Committee also expects that Federal agencies will respond to the data requests from appropriate local and State-level economic organizations and provide the data in a timely manner.

## TITLE IV “ADVANCING COMMERCIALIZATION OF SBIR-FUNDED RESEARCH”

*Sec 401. Clarified the definition of Phase Three and specified the appropriate measures for assessing whether a Phase Two project has successfully transitioned to Phase Three*

The purpose of the provision is to identify metrics that Federal agencies can use to measure how many of the Phase Two projects they fund have successfully reached Phase Three of the SBIR program. The Committee expects that a definition of “Phase Three” of the SBIR program will provides a basis for agencies to set goals for successful commercialization of SBIR-funded research.

*Sec 402. Directed agencies to develop annual goals associated with commercialization of SBIR-funded projects*

The Section requires that agencies must establish annual goals associated with (1) the percentage of SBIR projects that receive Phase Three funds, (2) the percentage of SBIR projects that are integrated into a program of record and (3) the amount of non-SBIR federal dollars received by SBIR projects through Federal contracts. The Committee expects that each Federal agency that awards annually \$5,000,000,000 or more in procurement contracts shall submit to the agency's SBIR Advisory Board annual goals for commercialization and data on the extent to which the goals were met. The Committee expects that the report that agencies make to the SBIR Advisory Board will include a description of the methodology used to collect the data.

*Sec 403. Permitted multiple Phase Two awards for promising research*

The section permits the issuance of Phase Two awards for testing and evaluation assistance associated with the insertion of SBIR technologies in technical and weapons systems. The Committee provides Federal agencies with this explicit authority with the intention that agencies will issue multiple Phase II awards in order to ensure that a greater number of SBIR research projects cross the so-called "valley of death." Because the Committee is concerned that agency decisions to issue multiple Phase Two awards can mean that fewer SBIR applicants are awarded SBIR grants, the section also requires agencies to provide quarterly reports to their SBIR advisory boards. The Committee expects that the quarterly reports to the Advisory Board will include the number of projects that receive additional Phase Two awards and the total dollar amount of the multiple awards. The Committee also expects that the Advisory Boards will include the same data in their annual reports to Congress.

*Sec 404. Required Federal agencies to establish a means to encourage partnerships that facilitate a SBIR grantee's progress to Phase Three*

The Committee expects that each Federal agency that administers an SBIR program shall establish initiatives that will encourage partnerships between SBIR awardees and prime contractors, venture capital operating companies and larger businesses. The purpose of these provisions is to facilitate the progress of SBIR awardees to Phase Three of the SBIR program. The Committee intends the agencies shall include data about these initiatives in the reports to their SBIR Advisory Board. The Committee intends that the Advisory Board will include an assessment of the effectiveness of the initiatives in their annual report to Congress.

*Sec 405. Authorized Federal agencies to award Phase Two grants on an accelerated timetable*

A funding gap of 6 to 12 months (which is the timeframe that often separates a Phase One and Phase Two grant) can derail a small company's ability to continue its research. To address this issue, the Committee provided authority to agencies to issue Phase Two awards on a timeline that best supports the development of

promising research and technologies. The Committee intends agencies to issue Phase Two SBIR awards to promising Phase One awardees as soon as is practicable, including in appropriate cases simultaneously with the issuance of the Phase One award.

*Sec 406 Directed all agencies to develop commercialization programs and authorized appropriation of funds to support the administration of commercialization programs*

Section requires that agencies establish efforts designed to support SBIR-funded research projects transition to Phase Three. Section also authorizes an annual appropriation to the Small Business Administration of \$27,500,000 that the SBA will transfer to Federal agencies administering SBIR programs.

The Committee intends that Federal agencies will develop commercialization programs and in doing so will consider initiatives such as partnership databases, partnership conferences, multiple Phase Twos, mentoring between Primes and SBIR, multiple Phase Two with matching private investment requirements, jumbo awards, SBIR Helpdesks, and Transition Assistance Programs. The Committee intends for the agencies to petition the Small Business Administration in order to receive funds to pay for the administration of programs designed to help SBIR-funded research projects transition to Phase Three.

The Committee expects that, not later than 90 days after the day of enactment of this section, the Administrator of the Small Business Administration will, in consultation with the Interagency Policy Committee established in Section 503 of the Act, will develop and establish rules for making transfer to agencies that have developed or are developing SBIR commercialization programs.

*Sec 407. Required agencies to report on the actions they are taking to strengthen research in the area of manufacturing technology*

The provision requires Federal agencies to report to their SBIR Advisory Board on the actions that the agency has undertaken in support of Executive Order 13329. A 2006 Defense Science Board Study concluded that the President's Executive order directing a manufacturing emphasis for SBIR and STTR has not been adequately addressed. The Committee's intention with this provision is to encourage Federal agencies to recognize the importance of research projects that advance manufacturing technology.

#### TITLE V "SUPPORTING PROGRAM UTILIZATION"

*Sec 501. Required Federal agencies to develop and maintain SBIR and STTR program evaluation databases that can be accessed by other agencies*

The intention of the section is to increase the data that Federal agencies collect about the small business concerns that participate in the SBIR and STTR programs and to require that Federal agencies develop a database for the purpose of program evaluation.

*Sec 502. Required each Federal agency to create and maintain a technology utilization database that is available to the public*

The purpose of this section is to direct Federal agencies to establish technology databases designed to attract investors and poten-

tial business partners to the small companies that are participating in SBIR.

*Sec 503. Established an Interagency SBIR/STTR Policy Committee and requires the Committee to report on SBIR/STTR issues to Congress*

The purpose of this section is to establish an Interagency SBIR/STTR Policy Committee that will examine the programmatic challenges facing all agencies administering SBIR/STTR programs and develop recommendations on ways to improve program effectiveness and efficiency. The Committee will report to Congress twelve months, eighteen months and twenty-four months after the date of enactment of this section on its progress.

*Sec 504. Added nanotechnology research to the SBIR statute's list of research topics deserving of special consideration*

The intention of this section is to expand the number of research reports deserving of special attention to include reports on nanotechnology research. The Committee expects that those who are responsible for the creation of SBIR solicitations to give special consideration to the findings of the reports referenced in the section.

*Sec 505. Specified that increasing SBIR participation from rural businesses shall be a priority of federal SBIR agencies*

The intention of this section is to increase the number of rural businesses that receive SBIR awards. Federal agencies are directed to give priority to applications submitted by rural companies.

#### TITLE VI "IMPLEMENTATION"

Sec 601. This section requires the Administrator of the Small Business Administration to promulgate amendments to the SBIR and STTR Policy Directives to conform to the Act.

Sec 602. This section removes the authorization established in the Small Business Reauthorization Act of 2000 that the National Research Council provide an updated report on the SBIR program.

#### VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The legislation is under review by CBO and an estimate will be made part of the Congressional Record prior to consideration of the legislation by the House. The CBO has provided a letter that the legislation includes no direct spending and complies with House Rules.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, April 17, 2008.

Hon. NYDIA M. VELÁZQUEZ,  
Chairman, Committee on Small Business,  
House of Representatives, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office is reviewing H.R. 5819, the SBIR/STTR Reauthorization Act, as ordered reported by the Committee on Small Business on April 17, 2008. Enacting the bill would have no impact on direct spending or reve-

nues. CBO will provide an estimate of the bill's effects on discretionary spending next week.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

ROBERT A. SUNSHINE  
(For Peter S. Orszag, Director).

#### VIII. COMMITTEE ESTIMATE OF COSTS

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5819. The legislation is under review by CBO and an estimate will be made part of the Congressional Record prior to consideration of the legislation by the House. The Committee estimates that the bill could cost in excess of \$100 million over the two year authorization. As such, the committee estimates the 5-year budgetary impact would be \$100 million.

#### IX. OVERSIGHT FINDINGS

In accordance with clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 5819 are incorporated into the descriptive portions of this report.

#### X. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, clause 18, of the Constitution of the United States.

#### XI. COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 5819 contains no unfunded mandates.

#### XII. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 5819 does not relate to the terms and conditions of employment or access to public services or accommodations with the meaning of section 102(b)(3) of P.L. 104-1.

#### XIII. FEDERAL ADVISORY COMMITTEE STATEMENT

This legislation does not establish or authorize the establishment of any new advisory committees.

#### XIV. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 5819 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

XV. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5819 includes a number of provisions designed to modernize and make more effective the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The Ramseyer Print for H.R. 5819 was not available at time of the filing of report. A Ramseyer version will be made part of the Congressional Record.

COMMITTEE ON SMALL BUSINESS MARKUP OF PENDING LEGISLATION, APRIL 17, 2008

H.R. 5819, The SBIR/STTR REAUTHORIZATION ACT

Sponsor	Amendment Number	Description
Velázquez .....	01	The amendment will permit certain venture capital companies to play a role in the financing of SBIR firms.

