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ENHANCING SMALL BUSINESS RESEARCH AND INNOVATION ACT OF 2009

JULY 7, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GORDON of Tennessee, from the Committee on Science and Technology, submitted the following

R E P O R T

together with

[To accompany H.R. 2965]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science and Technology, to whom was referred the bill (H.R. 2965) to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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I. BILL

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 "Enhancing Small Business Research and Innovation Act of 2009".

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

Sec. 1. Short title; table of contents.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

Sec. 101. Extension of termination dates.
Sec. 102. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR and STTR programs.

TITLE II—COMMERCIALIZATION ACTIVITIES AND RESEARCH TOPICS DESERVING SPECIAL CONSIDERATION

Sec. 201. Focus on commercialization.
Sec. 202. Inclusion of energy-related research topics and rare disease-related research topics as deserving "special consideration" as SBIR research topics.
Sec. 203. Nanotechnology-related research topics.
Sec. 204. Clarifying the definition of "Phase Three".
Sec. 205. Agency research goals.
Sec. 206. Commercialization programs.

TITLE III—RURAL DEVELOPMENT AND OUTREACH

Sec. 301. Outreach and support activities.
Sec. 302. Rural preference.
Sec. 303. Obtaining SBIR applicant's consent to release contact information to economic development organizations.
Sec. 304. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.

TITLE IV—SBIR AND STTR ENHANCEMENT

Sec. 401. Increased number of research topic solicitations annually and shortened period for final decisions on applications.
Sec. 402. Agencies should fund vital R&D projects with the potential for commercialization.
Sec. 403. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.
Sec. 404. Funding for administrative, oversight, and contract processing costs.
Sec. 405. Comptroller general audit of how Federal agencies calculate extramural research budgets.
Sec. 406. Agency databases to support program evaluation.
Sec. 407. Agency databases to support technology utilization.
Sec. 408. Interagency Policy Committee.
Sec. 409. National Research Council SBIR Study.
Sec. 410. Express authority to "fast-track" Phase Two awards for promising Phase One research.
Sec. 411. Increased SBIR and STTR award levels.
Sec. 412. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.
Sec. 413. First phase required.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

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 "2011".

(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 "2011".

SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

"(aa) VENTURE CAPITAL OPERATING COMPANIES.—Effective only for the SBIR and STTR programs the following shall apply:

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

"(2) 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—

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

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

"(3) A business concern shall be deemed to be 'independently owned and operated' if—

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

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

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

"(4) If a venture capital operating company controlled by a business with more than 500 employees (in this paragraph referred to as a 'VCOC under large business control') has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, the small business concern is eligible to receive an award under the SBIR or STTR program only if—

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

"(B) the VCOCs under large business control do not collectively own more than 20 percent of the small business concern.

"(5) The term 'venture capital operating company' means a business concern—

"(A) 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—

"(I) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–51 et seq.); or

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

"(B) 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 II—COMMERCIALIZATION ACTIVITIES AND RESEARCH TOPICS DESERVING SPECIAL CONSIDERATION

SEC. 201. FOCUS ON COMMERCIALIZATION.

Section 9(a) of the Small Business Act (15 U.S.C. 638(a)) is amended by adding at the end the following: "It is further the policy of Congress that the programs established in this section should focus on promoting research and development of projects governed by commercial business plans, which have significant potential to produce products or services for the marketplace or for acquisition by Federal agencies.".

SEC. 202. 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) in subparagraph (A) by striking "or" at the end; 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

"(E) the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the 'Transportation Research, Development and Technology Strategic Plan (2006–2010)' issued by the United States Department of Transportation Research and Innovative Technology Administration, and in subsequent reports issued by the National Academy of Sciences and United States Department of Transportation on transportation and infrastructure;".

SEC. 203. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.

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

(1) in subparagraph (D) by striking "or" at the end;

(2) in subparagraph (E) by adding "or" at the end; and

(3) by adding at the end the following:

"(F) 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)(3) of the Small Business Act (15 U.S.C. 638(o)(3)) is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by adding "or" at the end; and

(3) by adding at the end the following:

"(C) 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;".

SEC. 204. 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) 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')";

(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. 205. AGENCY RESEARCH GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended, is further 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 2010 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 COMMITTEES.—For each fiscal year for which goals are required by paragraph (1), the agency 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) 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 such data.".

SEC. 206. COMMERCIALIZATION PROGRAMS.

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

"(bb) COMMERCIALIZATION PROGRAMS.—

"(1) IN GENERAL.—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.

"(2) 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 2010 and each fiscal year thereafter.

"(3) FUNDING LIMITATION.—For payment of expenses incurred to administer the commercialization programs described in paragraphs (1) and (2), the head of an agency may use not more than an amount equal to 1 percent of the funds set aside for the agency's 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 Federal Government.".

TITLE III—RURAL DEVELOPMENT AND OUTREACH

SEC. 301. OUTREACH AND SUPPORT ACTIVITIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended, is further 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) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $10,000,000 to carry out paragraph (1) for each of fiscal years 2010 and 2011.

"(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), including guidelines relating to award sizes, proposal requirements, measures for monitoring awardee performance, and measures for determining the 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), 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) 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).

"(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) 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;

"(C) criteria designed to give preference to applicants who propose to measure the effectiveness of the proposed activities; and

"(D) criteria designed to give preference to applicants who include a Small Business Development Center program that is accredited for its technology services.

"(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 AWARDS.—In making awards under paragraph (1) the Administrator shall ensure that 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. RURAL PREFERENCE.

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

"(cc) 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.".

SEC. 303. 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), as amended, is further amended by adding at the end the following:

"(dd) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—

"(1) 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—

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

"(B) release the concern's contact information to such organizations.

"(2) RULES.—The Administrator shall establish rules to implement this subsection. 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 paragraph (1).".

SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR AWARDEES AND PRIME CONTRACTORS, VENTURE CAPITAL INVESTMENT COMPANIES, AND LARGER BUSINESSES.

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

"(ee) INCREASED PARTNERSHIPS.—

"(1) IN GENERAL.—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, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase.

"(2) DEFINITION.—In this subsection, the term 'business incubator' means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses' startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and training services, or other coordinated business or technical support serv-

ices designed to provide business development assistance to entrepreneurial businesses during these businesses' startup phases.".

TITLE IV—SBIR AND STTR ENHANCEMENT

SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY AND SHORTENED PERIOD FOR FINAL DECISIONS ON APPLICATIONS.

(a) INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY.—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 the Small Business Act (15 U.S.C. 638(g)(4)) is amended by inserting before the semicolon at the end the following: ", but a final decision on each proposal shall be rendered not later than 90 days after the date on which the solicitation closes unless the Administrator determines, on a case by case basis, that a decision may be extended from 90 days to 180 days".

SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS WITH THE POTENTIAL FOR COMMERCIALIZATION.

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

"(ff) MULTIPLE FIRST PHASE SBIR AWARDS REPORT.—The Administrator shall, on an annual basis, 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 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. 403. FEDERAL AGENCY ENGAGEMENT WITH SBIR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE ONE AWARDS BUT HAVE NOT BEEN AWARDED PHASE TWO AWARDS.

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

"(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR AWARDEES.—Each Federal agency required by this section to conduct an SBIR program shall engage with SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and shall develop performance measures with respect to awardee progression in the SBIR program.".

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

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

"(hh) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

"(1) IN GENERAL.—From amounts made available to carry out this subsection, the Administrator may, on petition by Federal agencies required by this section to conduct an SBIR program, transfer funds to such agencies to assist with the administrative, oversight, and contract processing costs relating to such program.

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

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

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $27,500,000 for each of fiscal years 2010 and 2011.".

SEC. 405. 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 Program and Small Business Technology Transfer Program 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.

SEC. 406. 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 and available at the time 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. Each such database shall be developed and operated in a manner to ensure that each such database is relevant to and contributes to the agency's oversight and evaluation of the SBIR and STTR programs. Paragraphs (4) and (5) apply to each database under this paragraph.".

SEC. 407. AGENCY DATABASES TO SUPPORT TECHNOLOGY UTILIZATION.

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)), as amended, 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. Each database created under this paragraph shall be developed and operated in a manner to ensure that each such database is relevant to and contributes to the agency's oversight and evaluation of the SBIR and STTR programs.".

SEC. 408. 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 rep-

resentative from each Federal agency with an SBIR program and the Office of Management and Budget.

(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 SBIR/STTR Policy Committee.

(c) DUTIES.—The Interagency SBIR/STTR 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.

(4) Development and incorporation of a standard evaluation framework to enable systematic assessment of SBIR and STTR, including through improved tracking of awards and outcomes and development of performance measures for individual agency programs.

(d) REPORTS.—The Interagency SBIR/STTR 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 subsections (c)(1) and (c)(4) 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. 409. NATIONAL RESEARCH COUNCIL SBIR STUDY.

Section 108(d) of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note), enacted into law by reference under section 1(a)(9) of the Consolidated Appropriations Act, 2001 (Public Law 106–554), 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".

SEC. 410. EXPRESS AUTHORITY TO "FAST-TRACK" PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.

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

"(ii) AUTHORITY TO 'FAST-TRACK' PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.—To address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program, each Federal agency with an SBIR program may develop 'fast-track' programs to eliminate such 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. The Administrator shall encourage the development of such 'fast-track' programs.".

SEC. 411. INCREASED SBIR AND STTR AWARD LEVELS.

(a) SBIR AWARD LEVEL AND ANNUAL ADJUSTMENTS.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding at the end the following:

"(4) FURTHER ADDITIONAL MODIFICATIONS.—Not later than 180 days after the date of enactment of this paragraph and notwithstanding paragraph (2)(D), the Administrator shall modify the policy directives issued pursuant to this subsection to provide for an increase to $250,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $2,000,000 in the second phase of an SBIR program, and a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations.".

(b) STTR AWARD LEVEL AND ANNUAL ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking "$100,000" and "$750,000" and inserting "$250,000" and "$2,000,000", respectively; and

(2) 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".

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

"(jj) LIMITATION ON PHASE I AND II AWARDS.—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)(4) and (p)(2)(B)(ix).".

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

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

"(kk) REQUIREMENTS RELATING TO ADDITIONAL SECOND PHASE SBIR AWARDS.—

"(1) IN GENERAL.—A small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards for such project.

"(2) TECHNICAL OR WEAPONS SYSTEMS.—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.".

SEC. 413. FIRST PHASE REQUIRED.

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

"(ll) FIRST PHASE REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award for the second phase of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award for the first phase of an SBIR program with respect to such project or has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided an award for the first phase.".

II. PURPOSE OF THE BILL

The purpose of the bill is to reauthorize the Small Business Innovation Research (SBIR) Program and the Small Business Technology Transfer (STTR) Program at the Small Business Administration (SBA) through 2011. The legislation also implements a number of policy changes to better reflect the competitive environment facing small high-tech businesses.

III. BACKGROUND AND NEED FOR LEGISLATION

SBIR

Congress has demonstrated an ongoing interest in the small business sector and has given special consideration to small, high tech firms in addressing issues related to economic growth and competitiveness. This is for several reasons, including the fact that data indicates such companies tend to be highly innovative, play a significant role in technological advancement, and contribute to a high standard of living in the United States. Such was the rationale behind legislation creating the SBIR program (P.L. 97–219). Believing that small companies were underrepresented in government R&D activities, P.L. 97–219 established agency SBIR programs to guarantee this sector a portion of the government's research and development budget to compensate for what was viewed as a federal contracting preference for large corporations.

Current law requires that every Federal department with an extramural R&D budget of $100 million or more establish and operate a SBIR program. Generally, a set percentage of that agency's extramural research and development budget—currently set at 2.5%—is to be used to support mission-related work in small companies. To be eligible to compete in the program, a company must: (1) be independently owned and operated; (2) not be dominant in the field of research proposed; (3) for profit; (4) employ 500 or fewer

people; (5) be the primary employer of the principal investigator; and (6) be at least 51% owned by one or more U.S. citizens or lawfully admitted permanent resident aliens. Subsidiaries of SBIR-eligible companies are also eligible to participate as long as the parent company meets all SBIR requirements.

Agency SBIR efforts involve three phases of activity. In the first phase, awards up to $100,000 (for six months) are provided to evaluate a concept's scientific or technical merit and feasibility. The project must be of interest to, and coincide with, the mission of the supporting organization. Projects that demonstrate potential after the initial endeavor may compete for Phase II awards of up to $750,000 (lasting one to two years) to perform the principal R&D. Phase III funding, directed at the commercialization of the product or process, is expected to be generated in the private sector. Federal dollars, but not SBIR funds, may be used if the government perceives that the final technology or technique will meet public needs. The Small Business Research and Development Enhancement Act of 1992 (P.L. 102–564) directed agencies to weigh commercial potential as an additional factor in evaluating SBIR proposals.

As of Fiscal Year 2009, 11 departments administer SBIR programs, including the Departments of Agriculture, Commerce, Defense (DOD), Education, Energy (DOE), Health and Human Services (HHS), Homeland Security, and Transportation; the Environmental Protection Agency; the National Aeronautics and Space Administration (NASA); and the National Science Foundation (NSF). Individual departments select R&D interests, administer program operations, and control financial support. Funding may be disbursed in the form of contracts, grants, or cooperative agreements. Separate agency solicitations are issued at established times.

The Small Business Administration has created broad policy and guidelines under which individual departments operate SBIR programs. The agency monitors and reports to Congress on the conduct of the separate departmental activities.

STTR

A pilot effort to encourage commercialization of university and Federal laboratory R&D by small companies was created by the Small Business Research and Development Enhancement Act of 1992 (P.L. 102–564) and reauthorized several times through Fiscal Year 2009. The STTR program provides funding for research proposals that are developed and executed cooperatively between a small firm and a scientist in a research organization and fall under the mission requirements of the Federal funding agency. Up to $100,000 in Phase I financing is available for one year. Phase II awards of up to $750,000 may be made for two years. Currently funded by a set-aside of 0.3% of the extramural R&D budget of departments that spend over $1 billion per year, the DOE, DOD, HHS, NASA, and NSF participate in the STTR program.

LEGISLATION

The SBIR and STTR programs have been extended several times and were scheduled to terminate on September 30, 2008. In the 110th Congress, several bills were introduced to reauthorize and alter the initiatives. H.R. 5819, the SBIR/STTR Reauthorization

Act, passed the House on April 23, 2008, and the Senate version (S. 3362) was reported from the Senate Committee on Small Business and Entrepreneurship on August 22, 2008. However, no comprehensive SBIR and STTR reauthorization bill was enacted.

S. 3029, a bill to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 (P.L. 110–235), temporarily extended SBIR activity through March 20, 2009. H.R. 1541, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 (P.L. 111–10), provided another extension of the program through July 31, 2009.

The original statute creating the SBIR program was signed into law in 1982. Much has changed in terms of the competitive challenges facing American small high-tech entrepreneurs as well as the trend of globalization of all aspects of the R&D enterprise. Therefore, H.R. 2965 implements a number of policies which better reflect the current environment.

IV. Hearing Summaries

The Committee on Science and Technology held four hearings on the SBIR and STTR programs over the past three Congresses.

The Committee held the first hearing in the 109th Congress on Tuesday, June 28, 2005. The hearing, entitled Small Business Innovation Research: What is the Optimal Role of Venture Capital?, focused on the issues associated with awarding SBIR grants to small businesses owned, or partly owned, by venture capital (VC) firms. The witnesses were: The Honorable Sam Graves, Member, U.S. House of Representatives; Ms. Ann Eskesen, President of Innovation Technology Institute; Dr. Ron Cohen, CEO of Acorda Technologies; Mr. Jonathan Cohen, President and CEO of 20/20 Gene Systems; Dr. Carol Nacy, CEO of Sequella Inc.; and Dr. Frederic Abramson, President and CEO of AlphaGenetics Inc. The witnesses discussed how VC ownership of small companies should be treated in the consideration of SBIR applications and ways to improve the SBIR program to more efficiently promote the development of new technologies and help bring them to market. The witnesses were split on whether VC-backed companies should be eligible for SBIR funding—half of the witnesses were in favor of these companies being eligible, arguing that the VC money was used for different purposes than the SBIR money, while the remaining witnesses supported the existing SBA ruling that makes businesses that are majority-owned by venture capitalists ineligible for SBIR grants.

The Committee held a second hearing in the 110th Congress on Thursday, April 26, 2007, entitled Small Business Innovation Research Reauthorization on the 25th Program Anniversary. This hearing focused on the degree to which the current programs were meeting their objectives, the adequacy of the award levels, strategies to maximize small business participation and increase participation by women and minority-owned small businesses, the programs' effectiveness in promoting product commercialization, covering administrative costs, and the appropriate role for VC-backed small businesses. The witnesses were: Mr. Bruce J. Held, Director of the Force Development and Technology at the RAND Arroyo Center, RAND Corporation; Mr. Jon Baron, Executive Director of

the Coalition for Evidence-Based program Policy at the Council for Excellence in Government; Mr. Robert N. Schimdt, Founder and Chairman of Cleveland Medical Devices and Orbital Research Inc.; Dr. Gary McGarrity, Executive Vice President of Scientific and Clinical Affairs, VIRxSYS Corporation; and Mr. Anthony R. Ignagni, President and CEO of Synapse Biomedical Inc. The witnesses discussed the benefits of the SBIR program, and argued that more flexibility in the solicitation and funding process would enhance the program. A witness also recommended that the SBIR program consider methods to build up entrepreneurial skills. Two of the witnesses criticized the SBA ruling barring VC-backed businesses from receiving SBIR grants.

The Committee held a third hearing in the 110th Congress on Tuesday, June 26, 2007. The hearing, entitled SBIR and STTR—How are the Programs Managed Today?, focused on program trends, outreach to encourage new applicants and reach out to a diverse pool of applicants, program data and tracking, and the role of procurement in enabling commercialization. The witnesses were: Mr. Michael J. Caccuitto, SBIR/STTR Program Coordinator at the Office of Small Business Programs in DOD; Ms. Jo Anne Goodnight, SBIR/STTR Program Coordinator at the Office of Extramural Research of the National Institutes of Health (NIH) in HHS; Mr. Larry S. James, SBIR and STTR Program Manager and Acting Director at the Small Business Research Division in DOE; Mr. Doug A. Comstock, Director of the Innovative Partnership Program Office at NASA; and Dr. Kesh S. Narayanan, Director of the Division of Industrial Innovation and Partnerships in the Directorate for Engineering at NSF. The witnesses discussed the state of the SBIR and STTR programs in their respective departments. Two of the witnesses reported that a balance of centralized oversight and decentralized management were key to the programs' success. A third witness emphasized the importance of program flexibility in fulfilling SBIR and STTR goals. A fourth witness cited a recent restructuring of program oversight that allowed for a more integrated approach. The final witness also reported the programs' overall success, but noted that limited funds restricted certain management possibilities.

The Committee held a fourth hearing in the 111th Congress on Thursday, April 23, 2009. The hearing, entitled The Role of SBIR and STTR Programs in Stimulating Innovation At Small High-Tech Businesses, focused on the programs' role in supporting innovation at small high-tech firms and how, in turn, this promotes the economic welfare of the Nation. The hearing also explored the efficiency of the SBIR and STTR programs at stimulating innovation at these businesses. The witnesses were: Dr. Robert Berdahl, President of the Association of American Universities; Mr. Jim Greenwood, President and CEO of the Biotechnology Industry Organization; Dr. Sally Rockey, Acting Deputy Director for Extramural Research at NIH; and Mr. Jere Glover, Attorney and Executive Director for the Small Business Technology Council. The witnesses discussed their views on updating the rules by which companies qualify for participation in the SBIR and STTR programs. Three of the witnesses agreed that the programs were generally working well, but argued that new legislation was needed to better allow small high-tech firms with venture capital backing to participate in SBIR

and STTR. One of the witnesses emphasized the importance of flexibility in the program, while another added that additional changes were needed to redefine the process by which the number of employees is determined. The final witness disagreed that changes were needed to SBIR, but suggested that increased funding for the program would be beneficial.

V. Committee Actions

111TH CONGRESS

On June 19, 2009, Representative Jason Altmire, for himself and Representatives Wu, Graves, Velázquez, Schock, Nye, Halvorson, and Bright, introduced H.R. 2965, the Enhancing Small Business Research and Innovation Act of 2009. The bill was referred to the Committee on Small Business and the Committee on Science and Technology.

The Committee on Science and Technology met to consider H.R. 2965 on June 24, 2009. The Committee considered an amendment by Representative Smith of Nebraska to add the Office of Management and Budget as a member of the Interagency SBIR/STTR Policy Committee. It further added systematic program evaluation to the list of issues the Interagency SBIR/STTR Policy Committee must review and specified that the committee must report on its review and recommendations relating to this issue not later than one year after the date of enactment. The amendment was agreed to by voice vote. H.R. 2965, as amended, was agreed to by voice vote.

Mr. Gordon moved that the Committee favorably report H.R. 2965, as amended, to the House with the recommendation that the bill do pass. The motion was agreed to by voice vote.

110TH CONGRESS

On April 15, 2008, Representative Wu, for himself and Representatives Baird, Gordon, and Wilson of Ohio, introduced H.R. 5789, the *Science and Technology Innovation Act of 2008*. It was referred to the Committee on Small Business and the Committee on Science and Technology.

On April 16, 2008, the Subcommittee on Technology and Innovation of the Committee of Science and Technology met to consider H.R. 5789. Representative Ehlers offered an amendment and Representative Gingrey offered two amendments, none of which were adopted. Representative Wilson offered an amendment adding nanotechnology-related research to the list of topics to receive "special consideration" in determining SBIR and STTR awards. The amendment was agreed to by voice vote. Representative Smith of Nebraska offered an amendment adding a section requiring priority be given to SBIR and STTR applications from rural areas. The amendment was agreed to by voice vote. Mr. Gingrey moved that the Subcommittee favorably report H.R. 5789, as amended, to the Full Committee on Science and Technology. The motion was agreed to by voice vote.

On April 16, 2008, Representative Velázquez, for herself and Representatives Graves and Sestak, introduced H.R. 5819, the *SBIR/STTR Reauthorization Act*, which incorporated provisions

from H.R. 5789. H.R. 5819 was referred to the Committee on Small Business and the Committee on Science and Technology.

On April 18, 2008, H.R. 5819 was discharged from the Committee on Science and Technology. On April 23, 2008, the House passed H.R. 5819 by a recorded vote of 368–43.

On April 24, 2008, H.R. 5819 was received in the Senate and referred to the Committee on Small Business and Entrepreneurship. No further legislative action was taken on H.R. 5819 in the 110th Congress.

VI. Summary of Major Provisions

H.R. 2965 extends the authorization for the SBIR and STTR programs through Fiscal Year 2011. It provides that small businesses with substantial investment from Venture Capital Operating Companies are eligible to participate in the SBIR and STTR programs. It adds additional research topics as topics deserving special consideration. It requires agencies to establish annual goals for commercialization of projects funded by SBIR awards and to establish a commercialization program that supports the progression of SBIR awardees to the third phase. It directs the SBA Administrator to make outreach and support grants, and further requires agencies to increase the number of award recipients from rural areas.

H.R. 2965 requires agencies to conduct at least two rounds of SBIR research solicitations per year, and render a final decision on each proposal within 90 days after the solicitation closes. It authorizes funding to assist with the administrative, oversight, and contract processing costs relating to the SBIR program. It also establishes an interagency policy committee to review issues related to the SBIR and STTR programs and make policy recommendations. The bill further increases the award levels for the SBIR and STTR programs for both Phase I and Phase II.

VII. Section-by-Section Analysis (by Title and Section)

Sec. 1. Short title; table of contents

"Enhancing Small Business Research and Innovation Act of 2009"

Title I. Program Extension and Venture Capital Operating Company Involvement

Sec. 101. Extension of termination dates

Amends the Small Business Act to extend through FY2011 the SBIR and STTR programs of the SBA.

Sec. 102. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are eligible to participate in the SBIR and STTR programs

Provides that, effective only for the SBIR and STTR programs: (1) a business concern that has more than 500 employees shall not qualify as a small business concern; (2) in determining whether a small business concern is independently owned and operated, the SBA Administrator shall not consider a business concern to be affiliated with a venture capital operating company if the venture capital operating company (VCOC) does not own 50% or more of

the business concern and employees of the VCOC do not constitute a majority of the board of directors of the business concern; (3) a business concern shall be deemed to be independently owned and operated if it is owned in majority part by one or more natural persons or VCOCs, there is no single VCOC that owns 50% or more of the business concern, and there is no single VCOC the employees of which constitute a majority of the board of directors of the business concern; and (4) if a VCOC controlled by a business with more than 500 employees has an ownership interest in a small business owned in majority by VCOCs, that small business is eligible to receive an SBIR or STTR award only if not more than two of such VCOCs have an ownership interest in the small business and such VCOCs do not collectively own more than 20% of the small business.

Defines the term "venture capital operating company".

Title II. Commercialization Activities and Research Topics Deserving Special Consideration

Sec. 201. Focus on commercialization

Amends section 9 to modify the purpose and policy of the SBIR and STTR programs as follows:

"It is further the policy of Congress that the purpose of the programs established in this section should focus on promoting research and the development of projects governed by commercial business plans, which have significant potential to produce products or services for the marketplace or for acquisition by Federal agencies."

Sec. 202. Inclusion of energy-related research topics and rare disease-related research topics as deserving "special consideration" as SBIR research topics

Includes energy-related research (as identified by the National Academy of Sciences (NAS), in the final report issued by the 'America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in subsequent reports issued by NAS on sustainability, energy, and alternative fuels), rare disease-related research (as identified by NIH, in the annual report on the rare diseases research activities of NIH for fiscal year 2005, and in subsequent reports issued by the NIH on rare diseases research activities), and transportation and infrastructure research (as identified by the NAS, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the 'Transportation Research, Development and Technology Strategic Plan (2006–2010)' issued by the United States Department of Transportation Research and Innovative Technology Administration, and in subsequent reports issued by the NAS and United States Department of Transportation on transportation and infrastructure) as "special consideration" SBIR research topics.

Sec. 203. Nanotechnology-related research topics

Includes nanotechnology research (as identified by the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act and in subsequent reports issued by the National Science and Tech-

nology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan) as a "special consideration" SBIR and STTR research topic.

Sec. 204. Clarifying the definition of "Phase Three"

Clarifies that the "third phase" of the SBIR program "shall consist of work that derives, extends, or logically concludes efforts performed under prior SBIR funding agreements (which may be referred to as 'Phase III')".

Also provides that 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. 205. Agency research goals

Requires agencies with SBIR programs that award annually $5 billion or more in procurement contracts to establish annual goals for commercialization of projects funded by SBIR awards. Outlines specific goals required, including: (1) the percentage of SBIR projects that receive private sector funds during the third phase; (2) the percentage of SBIR projects that are integrated into a program of record; and (3) the amount of Federal dollars received by SBIR projects through Federal contracts, not including dollars received through the SBIR program.

Requires that the goals be reported not later than 60 days after the beginning of the fiscal year and the extent to which the goals were met and a description of the methodology used to collect such data be reported not later than 90 days after the end of the fiscal year 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.

Sec. 206. Commercialization program

Requires each agency to establish a commercialization program that supports the progression of SBIR awardees to the third phase.

Requires 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 to be submitted to Congress.

Authorizes $27.5 million in funding to SBA, to be transferred to agencies to support commercialization programs. Specifies that agencies may not use more than an amount equal to 1% of the funds set aside for the agency's SBIR program to administer the commercialization program.

Title III. Rural Development and Outreach

Sec. 301. Outreach and support activities

Directs the Administrator to make grants on a competitive basis to organizations to: (1) conduct outreach efforts to increase participation in the programs; and (2) provide application support and entrepreneurial and business skills support to prospective participants.

Authorizes $10 million for each of fiscal years 2010 and 2011 to carry out these outreach and support activities.

Provides that the amount of assistance provided to an organization in any fiscal year shall be equal to the total amount of matching funds from non-Federal sources provided by the organization and shall not exceed $250,000.

Requires organizations receiving grants to direct activities towards small business concerns located in geographic areas that are underrepresented in the programs and/or small business concerns owned and controlled by women, by service-disabled veterans, and by minorities.

Requires the Administrator to establish an advisory board for outreach and support activities. Members of the advisory board shall include the Administrator (or the Administrator's designee), the head (or the designee of the head) of each Federal agency with an SBIR program, representatives of small business concerns that are current or former recipients of SBIR awards, and representatives of service providers of SBIR outreach and assistance. Assigns the following duties to the advisory board: (1) to develop guidelines for outreach awards; (2) to identify opportunities for coordinated outreach, technical assistance, and commercialization activities among Federal agencies, the recipients of the outreach awards, and applicants and recipients of SBIR awards; (3) to review and recommend revisions to outreach activities; and (4) 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 outreach activities and the effectiveness and impact of those activities.

Requires the Administrator to use selection criteria developed by the advisory board in awarding grants, including criteria designed to give preference to applicants who: (1) propose to carry out activities that will reach either an underperforming geographic area or an underrepresented population group; (2) propose to carry out activities that complement the existing public-private innovation support system for the targeted region or population; (3) propose to measure to effectiveness of the proposed activities; and (4) include a Small Business Development Center program that is accredited for its technology services.

Specifies that, in awarding grants, the Administrator is to use a peer review process.

States that, to be eligible to receive a grant, the applicant must have the written endorsement of the Governor of the State where the targeted regions or populations are located. Specifies that the 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. Includes a limitation stating that, each fiscal year, a Governor may have in effect not more than one written endorsement for an outreach grant and not more than one written endorsement for a support grant.

Provides that each award shall be for a period of 2 fiscal years.

Sec. 302. Rural preference

Requires agencies to give priority to SBIR and STTR award applications so as to increase the number of award recipients from rural areas.

Sec. 303. Obtaining SBIR applicant's consent to release contact information to economic development organizations

Requires each agency to enable an SBIR applicant to indicate whether the agency has its consent to identify the applicant to appropriate local and State-level economic development organizations as an applicant and release the applicant's contact information to such organizations.

Sec. 304. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses

Directs each agency to establish initiatives to encourage partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses in order to facilitate the progress of SBIR awardees to the third phase.

Defines "business incubator".

Title IV. SBIR and STTR Enhancement

Sec. 401. Increased number of research topic solicitations annually and shortened period for final decisions on applications

Requires the Administrator to establish by regulation a process in which each agency conducts at least two rounds of SBIR research solicitations per year, and renders a final decision on each proposal within 90 days after the solicitation closes (with an authorized extension to 180 days on a case-by-case basis).

Sec. 402. Agencies should fund vital R & D projects with the potential for commercialization

Requires the Administrator to submit annually 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 of small businesses that, during the previous five-year period, received 15 or more first phase SBIR awards and no second phase SBIR awards.

Sec. 403. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards

Requires each agency to engage with SBIR awardees that have been awarded multiple first phase awards but no second phase awards, and to develop performance measures with respect to awardee progression in the SBIR program.

Sec. 404. Funding for administrative, oversight, and contract processing costs

Authorizes $27.5 million for each of fiscal years 2010 and 2011 to the Administrator, to be transferred to agencies, to assist with the administrative, oversight, and contract processing costs relating to the SBIR program. States that an agency may not receive in a fiscal year an amount greater than 3 percent of the SBIR budget of such agency for such fiscal year under this subsection.

Sec. 405. Comptroller General audit of how federal agencies calculate extramural research budgets

Requires the Government Accountability Office (GAO) to carry out a detailed audit of how Federal agencies calculate extramural research budgets for purposes of calculating the size of the agencies' SBIR and STTR budgets.

Requires that GAO submit a report on the results of the audit within 1 year of the date of enactment 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.

Sec. 406. Agency databases to support program evaluation

Requires that the government database for SBIR and STTR program evaluation include information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period.

Requires: (1) SBIR and STTR small business participants to provide updated information for purposes of updating the government database for SBIR and STTR program evaluation; and (2) participating agencies to develop and maintain such databases.

Sec. 407. Agency databases to support technology utilization

Requires each agency to create and maintain a technology utilization database, available to the public and containing data supplied by award recipients, to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors or business partners. Participation in a database shall be voluntary, except that participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award.

Sec. 408. Interagency policy committee

Requires the Director of OSTP to establish an Interagency SBIR/STTR Policy Committee comprised of one representative from each Federal agency with an SBIR program. Specifies that the Director of OSTP and the Director of the National Institute of Standards and Technology shall jointly chair the committee.

Requires the committee to review the following issues and make policy recommendations on ways to improve the program effectiveness and efficiency: (1) the public and government databases; (2) Federal agency flexibility in establishing Phase I and Phase II award sizes; and (3) commercialization assistance best practices in Federal agencies with significant potential to be employed by other agencies, as well as proposals for new initiatives to address funding gaps business concerns face after Phase II but before commercialization.

Requires the committee to transmit to the Committee on Science and Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate reports on the issues identified above.

Sec. 409. National Research Council SBIR study

Amends the Small Business Reauthorization Act of 2000 to remove the requirement that the National Research Council provide an updated report on the SBIR program.

Sec. 410. Express authority to "fast-track" Phase Two awards for promising Phase One research

Authorizes agencies to develop fast-track programs to eliminate funding delays by issuing Phase Two SBIR awards as soon as practicable, including simultaneously with the issuance of the Phase One award.

Requires the Administrator to encourage the development of such "fast-track" programs.

Sec. 411. Increased SBIR and STTR award levels

Increases, for both the SBIR and STTR programs, the individual small business award levels from: (1) $100,000 to $250,000, for participation at a Phase One level; and (2) $750,000 to $2 million, for participation at a Phase Two level. Provides for an annual readjustment to these levels to reflect economic conditions and programmatic considerations.

Sec. 412. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects

States that a small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards for such project.

States that 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.

Sec. 413. First phase required

States that an agency shall provide to a small business concern an award for a second phase of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award for the first phase of an SBIR program with respect to such project or has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided an award for the first phase.

VIII. Committee Views

Innovation is crucial to our economic recovery. Innovation by small high-tech businesses creates high-wage jobs and stimulates economic growth. Congress must implement policies that strengthen small high-tech companies that work on the cutting edge of scientific and technological innovation. The SBIR and STTR programs do just that. Providing more than $2 billion, the SBIR and STTR programs provide necessary R&D funding to small high-tech firms to develop products for the marketplace and assist Federal agencies in their missions

One of the central issues for the reauthorization of these two programs is the issue of the participation of majority-owned, venture capital-backed high-tech businesses in these programs. During the

109th, 110th, and 111th Congresses, the Committee held a series of hearings which explored the positive and negative effects of allowing majority venture capital-backed firms to participate in the SBIR and STTR programs. For the most part, the debate was marked by a lack of data supporting the views of proponents or opponents of expanding participation.

Therefore, the Committee was pleased that, on May 2, 2009, the National Academy of Sciences released a report, entitled "Venture Capital Funding and the NIH SBIR Program". In essence, the report concludes:

- From 1992 to 2002, there is no indication that "venture-controlled" firms crowded out non-venture-controlled firms. "Venture-controlled" firms accounted for only 4.1 to 11.9 percent of NIH's phase II awards.
- The recent exclusion of "venture-controlled" firms seems to disproportionately affect firms with demonstrated potential for significant commercialization.
- Restricting access to SBIR funding for companies that benefit from VC investments would risk disproportionately affecting some of the smallest innovative businesses. To this extent, the current exclusion has the potential to diminish the positive impact of the nation's investment in research and development, especially in the biomedical area.
- Consideration should be given to either restoring the de facto status quo ante (i.e., allowing "venture-controlled firms") eligibility requirements for participation in the SBIR program or to making some other adjustment that will permit the limited number of majority-venture-funded firms with significant commercial potential to compete for SBIR funding.

Congress relies on NAS to provide it with objective, unbiased analysis. H.R. 2965 reflects the analysis of the NAS report.

The Committee also notes that it has worked closely with its colleagues on the Committee on Small Business in developing this legislation. The Committee has worked in the spirit of comity, and believes that the SBIR and STTR programs need to be updated to better reflect the challenges facing the American small high-tech businesses.

IX. Cost Estimate

A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted to the Committee on Science and Technology prior to the filing of this report and is included in Section X of this report pursuant to House Rule XIII, clause 3(c)(3).

H.R. 2965 does not contain new budget authority, credit authority, or changes in revenues or cost expenditures. H.R. 2965 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section X of this report.

X. Congressional Budget Office Cost Estimate

JULY 7, 2009.

Hon. BART GORDON,
Chairman, Committee on Science and Technology,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2965, the Enhancing Small Business Research and Innovation Act of 2009.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2965—Enhancing Small Business Research and Innovation Act of 2009

Summary: H.R. 2965 would expand and extend the authority for programs that require certain federal agencies to set aside portions of their research and development budgets for small businesses. The bill also would authorize appropriations to improve efforts to develop products funded through those programs that can be sold commercially. Finally, the bill would require participating agencies to develop databases for program evaluation and business development purposes.

Based on information from the Small Business Administration (SBA) and other agencies, CBO estimates that implementing H.R. 2965 would cost $272 million over the 2010–2014 period, subject to appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 2965 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2965 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 250 (general science, space, and technology), 270 (energy), 300 (natural resources and environment), 350 (agriculture), 370 (commerce and housing credit), 400 (transportation), 500 (education, training, employment, and social services), 550 (health), and 750 (administration of justice).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Reauthorize SBIR/STTR Programs:						
Estimated Authorization Level	33	33	17	17	17	117
Estimated Outlays	25	32	22	18	17	114
Commercialization:						
Authorization Level	28	28	28	28	28	140
Estimated Outlays	21	26	29	28	28	132
Outreach and Support Activities:						
Authorization Level	10	10	0	0	0	20
Estimated Outlays	2	5	7	5	1	20
Additional Agency Activities:						
Estimated Authorization Level	6	0	0	0	0	6

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
Estimated Outlays	3	3	0	0	0	6
Total Changes:						
Estimated Authorization Level	77	71	45	45	45	283
Estimated Outlays	51	66	58	51	46	272

Note: SBIR = Small Business Innovation Research; STTR = Small Business Technology Transfer.

Basis of estimate: Under current law, the Small Business Innovation Research (SBIR) program requires federal agencies with extramural budgets for research and development (R&D) that exceed $100 million per year to set aside 2.5 percent of that budget for contracts with small businesses. (Extramural budgets are made up of expenditures for activities not performed by agency employees.) Likewise, the Small Business Technology Transfer (STTR) program requires federal agencies with extramural budgets for R&D that exceed $1 billion per year to set aside 0.3 percent of that budget for cooperative research between small businesses and a federal laboratory or nonprofit research institution. Eleven agencies currently participate in one or both programs, including the Departments of Defense, Health and Human Services, Energy, Agriculture, and Homeland Security as well as the National Aeronautics and Space Administration, the National Science Foundation, and the Environmental Protection Agency.

The cost of those programs to the participating agencies consists primarily of personnel and associated overhead expenses to solicit applications, prepare reports, and track outcomes. The organizational structures of the program offices vary. Some agencies have full-time staff members devoted to the SBIR and STTR programs, with other staff assisting as part of their duties; other agencies, however, have employees working part-time on the program.

For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2009 and that the necessary funds will be appropriated near the start of each year. Based on information from SBA and participating agencies, CBO estimates that implementing H.R. 2965 would cost $272 million over the 2010–2014 period, assuming appropriation of the necessary amounts.

Reauthorization of the SBIR and STTR programs

The bill would extend both the SBIR and STTR programs through 2011. Under current law, the SBIR program is scheduled to terminate on July 31, 2009, and the STTR program is scheduled to terminate at the end of fiscal year 2009. H.R. 2965 would authorize the appropriation of $28 million for each of fiscal years 2010 and 2011 for costs associated with the SBIR program's administration, oversight, and contract processing activities. In addition, we estimate that participating agencies would require additional appropriations of about $5 million in each of years 2010 and 2011 for similar costs of the STTR program. CBO expects that participating agencies would continue to incur costs of about $17 million per year to administer existing contracts with small businesses for several years after the programs would expire in 2011.

Based on information from SBA and participating agencies, CBO estimates that reauthorizing the two programs would cost $114 million over the 2010–2014 period, assuming appropriation of the

necessary amounts. About $9 million of that amount would be for administrative costs incurred by the agencies to operate the STTR program, and $6 million would be for SBA.

Commercialization program

H.R. 2965 would authorize the appropriation of $28 million annually for a program to support agency efforts to assist small businesses that have received SBIR awards to develop products or services that could be sold to the government or in commercial markets. SBA would oversee this program—each agency participating in the SBIR program would be required to request funds from SBA to support its commercialization activities. Based on information from SBA and participating agencies, CBO estimates that implementing this provision would cost $132 million over the 2010–2014 period, assuming appropriation of the authorized amounts.

Outreach and support activities

H.R. 2965 would establish a program to conduct research and provide technical assistance to increase the number of small businesses participating in the SBIR program. The outreach activities would be directed to geographic areas that are under-represented in the program and to small businesses owned by women, veterans, and minorities. The bill would authorize the appropriation of $10 million for each of fiscal years 2010 and 2011 to implement the program. Based on historical spending patterns of SBA's other business assistance programs, CBO estimates that implementing this provision would cost $20 million over the 2010–2014 period, assuming appropriation of the authorized amounts.

Additional agency activities

H.R. 2965 would require each agency that participates in the SBIR or STTR program to collect more information from SBIR awardees to be included in a database used by the agency for program evaluation. The bill also would require agencies to develop a new database, available to the public, that would be used to help businesses that receive awards or contracts under either program to attract customers for the products or services developed with those awards. Based on information from the participating agencies, CBO estimates that implementing those provisions to create and update databases for each participating agency would cost about $6 million over the 2010–2014 period.

Intergovernmental and private-sector impact: H.R. 2965 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize a program to encourage states to assist in the development of high-technology small businesses. Any costs to state governments of providing matching funds to participate in the program would be incurred voluntarily.

Previous CBO estimates: On July 6, 2009, CBO transmitted an estimate for H.R. 2965, the Enhancing Small Business Research and Innovation Act of 2009, as reported by the House Committee on Small Business on June 26, 2009. The two versions of the legislation are nearly identical, and the cost estimates are the same.

On June 22, 2009, CBO transmitted an estimate for S. 1233, the SBIR/STTR Reauthorization Act of 2009, as reported by the Senate Committee on Small Business and Entrepreneurship on June 18,

2009. The House legislation differs in several ways from the Senate version. Specifically, it would: reauthorize the SBIR and STTR programs for a shorter period of time; not increase the amount of agency R&D budgets that would be set aside for those programs; and authorize a commercialization program. S. 1233, however, contains an authorization of appropriations for a workforce development program that is not included in H.R. 2965. CBO estimates that implementing the provisions of S. 1233 would cost $229 million over the 2010–2014 period.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Jacob Kuipers.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

XI. Compliance with Public Law 104–4

H.R. 2965 contains no unfunded mandates.

XII. Committee Oversight Findings and Recommendations

The Committee on Science and Technology's oversight findings and recommendations are reflected in the body of this report.

XIII. Statement on General Performance Goals and Objectives

Pursuant to clause 3(c) of House rule XIII, the goals of H.R. 2965 are to modernize the SBIR and STTR programs and make them more effective.

XIV. Constitutional Authority Statement

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 2965.

XV. Federal Advisory Committee Statement

H.R. 2965 does not create any new advisory committees subject to the Federal Advisory Committee Act.

XVI. Congressional Accountability Act

The Committee finds that H.R. 2965 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

XVII. Statement on Preemption of State, Local, or Tribal Law

This bill is not intended to preempt any State, local, or tribal law.

XVIII. Earmark Identification

H.R. 2965 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.

XIX. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * * * *

SEC. 9. (a) Research and development are major factors in the growth and progress of industry and the national economy. The expense of carrying on research and development programs is beyond the means of many small-business concerns, and such concerns are handicapped in obtaining the benefits of research and development programs conducted at Government expense. These small-business concerns are thereby placed at a competitive disadvantage. This weakens the competitive free enterprise system and prevents the orderly development of the national economy. Is is the policy of the Congress that assistance be given to small-business concerns to enable them to undertake and to obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the national economy. *It is further the policy of Congress that the programs established in this section should focus on promoting research and development of projects governed by commercial business plans, which have significant potential to produce products or services for the marketplace or for acquisition by Federal agencies.*

* * * * * * *

(e) For the purpose of this section—

(1) * * *

* * * * * * *

(4) the term "Small Business Innovation Research Program" or "SBIR" means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a uniform process having—

(A) * * *

* * * * * * *

(C) where appropriate, a third phase*, 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")—*

(i) * * *

* * * * * * *

(8) the term "research institution" means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto); [and]

(9) the term "commercial applications" shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection **[.]***; and*

(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.

* * * * * * *

(g) Each Federal agency required by subsection (f) to establish a small business innovation research program shall, in accordance with this Act and regulations issued hereunder—

(1) * * *

(2) issue small business innovation research solicitations in accordance with a schedule determined cooperatively with the Small Business Administration*, but not less often than twice per year*;

(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies *or pressing research priorities*, as identified by—

(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; **[**or**]**

* * * * * * *

(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;

(E) the National Academy of Sciences, in the final report issued by the "Transit Research and Development: Federal Role in the National Program" project and the "Transportation Research, Development and Technology Strategic Plan (2006–2010)" issued by the United States Department of Transportation Research and Innovative Technology Administration, and in subsequent reports issued by the National Academy of Sciences and United States Department of Transportation on transportation and infrastructure; or

(F) 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;

(4) unilaterally receive and evaluate proposals resulting from SBIR proposals*, but a final decision on each proposal shall be rendered not later than 90 days after the date on which the solicitation closes unless the Administrator determines, on a case by case basis, that a decision may be extended from 90 days to 180 days*;

* * * * * * *

[(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and development in excess of $20,000,000 for any fiscal year beginning with fiscal year 1983 or subsequent fiscal year shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less than the percentage of the agency's research or research and development budget expended under funding agreements with small business concerns in the immediately preceding fiscal year.**]**

(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 2010 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 COMMITTEES.—For each fiscal year for which goals are required by paragraph (1), the agency 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) 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 such data.

* * * * * * *

(j)(1) * * *

* * * * * * *

(4) FURTHER ADDITIONAL MODIFICATIONS.—Not later than 180 days after the date of enactment of this paragraph and notwithstanding paragraph (2)(D), the Administrator shall modify the pol-

icy directives issued pursuant to this subsection to provide for an increase to $250,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $2,000,000 in the second phase of an SBIR program, and a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations.

(k) DATABASE.—

(1) * * *

(2) GOVERNMENT DATABASE.—Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator, in consultation with Federal agencies required to have an SBIR program pursuant to subsection (f)(1) or an STTR program pursuant to subsection (n)(1), shall develop and maintain a database to be used exclusively for SBIR and STTR program evaluation that—

(A) contains for each second phase award made by a Federal agency—

(i) * * *

(ii) information collected in accordance with paragraph (3) on additional investment from any source, other than first phase or second phase SBIR or STTR awards, to further the research and development conducted under the award; [and]

(iii) any other information received in connection with the award that the Administrator, in conjunction with the SBIR and STTR program managers of Federal agencies, considers relevant and appropriate; *and*

(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;

* * * * * * *

[(3) UPDATING INFORMATION FOR DATABASE.—

[(A) IN GENERAL.—A small business concern applying for a second phase award under this section shall be required to update information in the database established under this subsection for any prior second phase award received by that small business concern. 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.

[(B) ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving a second phase award under this section shall—

[(i) update information in the database concerning that award at the termination of the award period; and

[(ii) be requested to voluntarily update such information annually thereafter for a period of 5 years.]

(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

and available at the time 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.

* * * * * * *

(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. Each such database shall be developed and operated in a manner to ensure that each such database is relevant to and contributes to the agency's oversight and evaluation of the SBIR and STTR programs. Paragraphs (4) and (5) apply to each database under this 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. Each database created under this paragraph shall be developed and operated in a manner to ensure that each such database is relevant to and

contributes to the agency's oversight and evaluation of the SBIR and STTR programs.

* * * * * * *

(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program established under this section shall terminate on September 30, [2008] *2011.*

(n) REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—

(1) REQUIRED EXPENDITURE AMOUNTS.—

(A) IN GENERAL.—With respect to each fiscal year through fiscal year [2009] *2011*, each Federal agency that has an extramural budget for research, or research and development, in excess of $1,000,000,000 for that fiscal year, shall expend with small business concerns not less than the percentage of that extramural budget specified in subparagraph (B), specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.

* * * * * * *

(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

(1) * * *

* * * * * * *

(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; [or]

(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code; *or*

(C) 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;

* * * * * * *

(p) STTR POLICY DIRECTIVE.—

(1) * * *

(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

(A) * * *

(B) a simplified, standardized funding process that provides for—

(i) * * *

* * * * * * *

(ix) 1-year awards for the first phase of an STTR program, generally not to exceed [$100,000] *$250,000*,

and 2-year awards for the second phase of an STTR program, generally not to exceed [$750,000] *$2,000,000*, [greater or lesser amounts] *with a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations, and with lesser amounts* to be awarded at the discretion of the awarding agency, and shorter or longer periods of time to be approved at the discretion of the awarding agency where appropriate for a particular project;

* * * * * * *

(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) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $10,000,000 to carry out paragraph (1) for each of fiscal years 2010 and 2011.

(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), including guidelines relating to award sizes, proposal requirements, measures for monitoring awardee performance, and measures for determining the 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), 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) 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).

(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) 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;

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

(D) criteria designed to give preference to applicants who include a Small Business Development Center program that is accredited for its technology services.

(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 AWARDS.—In making awards under paragraph (1) the Administrator shall ensure that 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.

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(aa) VENTURE CAPITAL OPERATING COMPANIES.—Effective only for the SBIR and STTR programs the following shall apply:

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

(2) 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—

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

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

(3) A business concern shall be deemed to be "independently owned and operated" if—

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

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

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

(4) If a venture capital operating company controlled by a business with more than 500 employees (in this paragraph referred to as a "VCOC under large business control") has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, the small business concern is eligible to receive an award under the SBIR or STTR program only if—

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

(B) the VCOCs under large business control do not collectively own more than 20 percent of the small business concern.

(5) The term "venture capital operating company" means a business concern—

(A) 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—

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

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

(B) 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.

(bb) COMMERCIALIZATION PROGRAMS.—

(1) IN GENERAL.—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.

(2) 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 2010 and each fiscal year thereafter.

(3) FUNDING LIMITATION.—For payment of expenses incurred to administer the commercialization programs described in paragraphs (1) and (2), the head of an agency may use not more than an amount equal to 1 percent of the funds set aside for the agency's 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 Federal Government.

(cc) 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.

(dd) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—

(1) 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—

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

(B) release the concern's contact information to such organizations.

(2) RULES.—The Administrator shall establish rules to implement this subsection. 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 paragraph (1).

(ee) INCREASED PARTNERSHIPS.—

(1) IN GENERAL.—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, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase.

(2) DEFINITION.—In this subsection, the term "business incubator" means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses' startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and training services, or other coordinated business or technical support services de-

signed to provide business development assistance to entrepreneurial businesses during these businesses' startup phases.

(ff) MULTIPLE FIRST PHASE SBIR AWARDS REPORT.—The Administrator shall, on an annual basis, 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 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.

(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR AWARDEES.—Each Federal agency required by this section to conduct an SBIR program shall engage with SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and shall develop performance measures with respect to awardee progression in the SBIR program.

(hh) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

(1) IN GENERAL.—From amounts made available to carry out this subsection, the Administrator may, on petition by Federal agencies required by this section to conduct an SBIR program, transfer funds to such agencies to assist with the administrative, oversight, and contract processing costs relating to such program.

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

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

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $27,500,000 for each of fiscal years 2010 and 2011.

(ii) AUTHORITY TO "FAST-TRACK" PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.—To address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program, each Federal agency with an SBIR program may develop "fast-track" programs to eliminate such 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. The Administrator shall encourage the development of such "fast-track" programs.

(jj) LIMITATION ON PHASE I AND II AWARDS.—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)(4) and (p)(2)(B)(ix).

(kk) REQUIREMENTS RELATING TO ADDITIONAL SECOND PHASE SBIR AWARDS.—

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

(2) TECHNICAL OR WEAPONS SYSTEMS.—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.

(ll) FIRST PHASE REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award for the second phase of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award for the first phase of an SBIR program with respect to such project or has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided an award for the first phase.

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SECTION 108 OF THE SMALL BUSINESS REAUTHORIZATION ACT OF 2000

SEC. 108. NATIONAL RESEARCH COUNCIL REPORTS.

(a) * * *

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(d) REPORT.—The National Research Council shall transmit to the heads of agencies entering into an agreement under this section and to the Committee on Science and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business [of the Senate—

[(1) not later than 3] *of the Senate, not later than 3* years after the date of the enactment of this Act, a report including the results of the study conducted under subsection (a)(1) and recommendations made under subsection (a)(2)[; and

[(2) not later than 6 years after that date of the enactment, an update of such report].

XX. COMMITTEE RECOMMENDATIONS

On June 24, 2009, the Committee on Science and Technology favorably reported the Enhancing Small Business Research and Innovation Act of 2009, by voice vote and recommended its enactment.

XXI. PROCEEDINGS OF THE FULL COMMITTEE MARKUP ON H.R. 2965, THE ENHANCING SMALL BUSINESS RESEARCH AND INNOVATION ACT OF 2009

WEDNESDAY, JUNE 24, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Bart Gordon [Chair of the Committee] presiding.

Chair GORDON. The Committee will come to order.

Pursuant to notice, the Committee on Science and Technology meets to consider the following measures: H.R. 2965, the *Enhancing Small Business Research and Innovation Act of 2009;* H.R. 2729, *To authorize the designation of National Environment Research Parks by the Secretary of Energy and for other purposes;* and H.R. 1622, *To provide for the programs of research, development and demonstration on natural gas vehicles.*

Today the Committee is going to mark up three good bipartisan pieces of legislation. The first bill, H.R. 2965, the *Enhancing Small Business Research and Innovation Act,* is one of the most significant bills the Committee will likely address in this Congress. The Small Business Innovation Research Program (SBIR) is a more than $2.3 billion federal investment in small high-tech businesses that assist them in developing commercial products and assist agencies in their mission related to research agendas. It is the single largest federal program supporting the private sector research activities.

Since its beginning more than 25 years ago, we have learned about the significant contributions small high-tech startup companies can have to our economy and employment growth. AmGen, Apple, Microsoft, Genetech, Research-in-Motion all started as small high-tech entrepreneurial firms. In the current economic environment, we need to do everything possible to support small high-tech entrepreneurs in the United States, which is the goal of the SBIR program.

There is no stronger supporter of the SBIR program than Representative David Wu. H.R. 2965 is largely the result of hard work by Representative Wu. In the 110th and 111th Congress, he has held three Subcommittee hearings on the program and he has worked closely with the Small Business Committee in crafting this legislation. H.R. 2965 is substantially the same bill which passed the House last year with only 43 no votes. H.R. 2965 was introduced with strong bipartisan support.

Unfortunately, the SBIR program is operating under rules more than 25 years old. H.R. 2965 makes major improvements to the SBIR program which reflects the current set of challenges confronting our small high-tech entrepreneurs. I strongly support this legislation and will work with my counterpart on the Small Business Committee to bring it to the Floor as quickly as possible. This program is set to expire on July 31, so time is of the essence.

Today we will also consider H.R. 2729, a bill introduced by Representative Luján that will formally authorize the seven National Environmental Research Parks supported by the Department of Energy (DOE). These parks are a truly unique national resource. They provide large tracks of undisturbed land that enable long-term research in environmental sciences, climate change and for the development and testing of methods to clean up past pollution. The parks are located on DOE sites in states across the country. They have had bipartisan cooperation in making this a good bill, and I hope that you will all join me in supporting it.

Finally, the Committee will consider H.R. 1622, a bill introduced by Mr. Sullivan of Oklahoma and co-sponsored by my friend from Texas, Mr. Hall, as well as Mr. Luján and Mr. Lucas. This bill reauthorizes the Department of Energy's research, development and

demonstration program in natural gas-powered vehicles and related infrastructure. The vehicle fleet of the future will include a diverse range of fuels and vehicle technologies, and since it is both cleaner than petroleum and domestically available, natural gas will likely play an important role in a more sustained transportation sector.

I hope we can continue to improve these bills in a bipartisan manner today, and I look forward to moving to the Floor for their final passage.

I now recognize Mr. Hall to present his opening remarks.

[The prepared statement of Chair Gordon follows:]

PREPARED STATEMENT OF CHAIR BART GORDON

Today the Committee is going to markup three good, bipartisan pieces of legislation. The first bill, H.R. 2965, the *Enhancing Small Business Research and Innovation Act,* is one of the most significant bills the Committee will likely address in this Congress.

The Small Business Innovation Research Program (SBIR) is a more than 2.3 billion dollar federal investment in small high-tech businesses that assists them in developing commercial products and assists agencies in their mission-related research agendas.

It is the single largest federal program supporting private-sector research activities.

Since its beginning more than 25 years ago, we have learned about the significant contributions small high-tech start-up companies can have to our economic and employment growth—AmGen, Apple, Microsoft, Genetech, and Research-in-Motion all started as small high-tech entrepreneurial firms. In the current economic environment we need to do everything possible to support small high-tech entrepreneurs in the United States, which is the goal of the SBIR program.

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They provide large tracts of undisturbed land that enable long-term research in environmental sciences, climate change, and for the development and testing of methods to clean up past pollution.

The Parks are located on DOE sites in states across the country, including my home State of Tennessee. We've had bipartisan cooperation in making this a good bill, and I hope you will all join me in supporting it.

Finally, the Subcommittee will consider H.R. 1622, a bill introduced by Mr. Sullivan of Oklahoma and co-sponsored by my friend from Texas, Mr. Hall, as well as Mr. Luján and Mr. Lucas. This bill reauthorizes the Department of Energy's research, development, and demonstration program in natural gas powered vehicles and related infrastructure.

The vehicle fleet of the future will include a diverse range of fuels and vehicle technologies.

And since it is both cleaner than petroleum and domestically available, Natural gas will likely play an important role in a more sustainable transportation sector.

I hope we can continue to improve these bills in a bipartisan manner today, and I look forward to moving to the Floor for final passage.

I now recognize Mr. Hall to present his opening remarks.

Mr. HALL. Mr. Chair, I thank you, and as you say, today we are marking up three bills: H.R. 2965, and the other two bills author-

izing the designation of National Research Parks by the Secretary of Energy and for H.R. 1622 that provides a program of research, development and demonstration on natural gas vehicles.

As you ably pointed out, H.R. 2965 extends and makes important changes to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, which as their names indicate, fund innovation and technology development of America's small businesses. One of the basic purposes of my parroting what you are saying is that I speak for myself when I say I support this bill and note that both the Committee and the Full House passed a bill very similar to this version last year, as you ably pointed out; and I am pleased that we are again able to advance this bill in a bipartisan fashion, working closely with the Majority as well as our counterparts on the Small Business Committee. This has allowed us to build a strong legislative record on this program, which will serve us well, and we aim to complete Floor action and conference negotiations before the program expires on July 31.

H.R. 2729 will authorize and make permanent the existing seven National Environmental Research Parks across the country. The National Environmental Research Parks are outdoor laboratories that provide opportunities for environmental studies on protected lands that act as buffers around the Department of Energy facilities. I commend Mr. Luján for his dedication on the Parks and for authorizing this legislation. I will be offering an amendment to the bill that came about as a result of consultation with the Parks and with the Majority staff to clarify that the Parks and the sites they are located on shall continue to be run as they currently are.

H.R. 1622 reauthorizes the natural gas vehicle R&D program that was created in the 1992 *Energy Policy Act.* This bill was introduced by Representative John Sullivan of Oklahoma and I co-sponsor it as does Representative Lucas on this committee. On a well-to-wheels basis, natural gas vehicles produce 22 percent less greenhouse gases than comparable diesel vehicles and 29 percent less gasoline vehicles. In 2007, natural gas vehicles displaced 250 million gallons of petroleum in the United States. In the next 17 years, the industry's goal is to grow that to 10 billion gallons. Over 60 percent of the petroleum used in America is imported. Much of it is from countries that are unstable and do not have the best interests of the United States in mind. Meanwhile, almost 98 percent of the natural gas used in America is produced in North America, 85 percent in the U.S. and the rest in Canada. Just last Thursday the report by the Potential Gas Committee, the authority on gas supplies, shows that the United States holds far larger reserves than previously thought, 35 percent more than the previous report showed in 2006. Natural gas makes sense as a transition fuel, and this bill will help us get more natural gas vehicles on the road. I will be offering an amendment to H.R. 1622 that will simply clear up some wording in order to avoid potential jurisdictional issues.

And since I have just a little bit of time left, I want to yield the balance of my time to Congressman Adrian Smith for additional comments on H.R. 2965.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF REPRESENTATIVE RALPH M. HALL

Thank you Mr. Chairman. Today we're marking up three bills, H.R. 2965, the *Enhancing Small Business Research and Innovation Act of 2009;* H.R. 2729, *To authorize the designation of National Environmental Research Parks by the Secretary of Energy, and for other purposes;* and H.R. 1622, *To provide for a program of research, development, and demonstration on natural gas vehicles.*

H.R. 2965 extends and makes important changes to the Small Business Innovation Research program (SBIR) and the Small Business Technology Transfer program (STTR), which, as their names indicate, fund innovation and technology development at America's small businesses. I support this bill, and note that both the Committee and the Full House passed a very similar version last year. I'm pleased that we're again able to advance this bill in a bipartisan fashion, working closely with the Majority as well as our counterparts on the Small Business Committee. This has allowed us to build a strong legislative record on this program, which will serve us well as we aim to complete Floor action and conference negotiations before the program expires on July 31st.

H.R. 2729 will authorize and make permanent the existing seven National Environmental Research Parks across the country. The National Environmental Research Parks are outdoor laboratories that provide opportunities for environmental studies on protected lands that act as buffers around Department of Energy (DOE) facilities. I commend Mr. Luján on his dedication to the Parks and for authoring this legislation. I will be offering an amendment to the bill that came about as a result of consultation with the Parks and with the Majority staff to clarify that the Parks and the sites they are located on shall continue to be run as they currently are.

H.R. 1622 reauthorizes the natural gas vehicle RD&D program that was created in the 1992 *Energy Policy Act.* This bill was introduced by Rep. John Sullivan of Oklahoma and is co-sponsored by myself and Rep. Lucas on this committee. On a well-to-wheels basis, natural gas vehicles produce 22 percent less greenhouse gases than comparable diesel vehicles and 29 percent less than gasoline vehicles. In 2007, natural gas vehicles displaced 250 million gallons of petroleum in the U.S. In the next 17 years, the industry's goal is to grow that to 10 billion gallons. Over 60 percent of the petroleum used in America is imported—much of it from countries that are unstable or do not have the best interests of the U.S. in mind. Meanwhile, almost 98 percent of the natural gas used in America is produced in North America—85 percent in the U.S. and the rest in Canada.

Just last Thursday, the report by the Potential Gas Committee, the authority on gas supplies, shows the United States holds far larger reserves than previously thought—35 percent more that the previous report showed in 2006. Natural gas makes sense as a transition fuel, and this bill will help us get more natural gas vehicles on the road. I will be offering an amendment to H.R. 1622 that will simply clear up some wording in order to avoid potential jurisdictional issues.

With that I yield back the balance of my time.

Mr. SMITH. Thank you. Thank you, Mr. Chair, Mr. Hall. I am pleased to support passage of this legislation, the *Enhancing Small Research and Innovation Act of 2009.* With 11 participating agencies and total funding in excess of $2.2 billion, the SBIR and STTR programs reauthorizing this legislation are a key component of the federal R&D and portfolio serving to facilitate increased private sector commercialization of promising ideas, helping the government advance its R&D goals and meet its technology needs.

This legislation makes important improvements to this program, most notably by providing statutory clarity to what have been changing interpretations of the eligibility of majority venture capital-backed small businesses. As we know, both this committee and the Small Business Committee have considered this issue in detail in recent years and I think the growing consensus in support of the legislation's proposed changes is a strong indication that they are on target, maximizing the eligibility of legitimate small businesses while minimizing inappropriate eligibility of large businesses.

I also want to note my strong support for title III of this bill which includes amendment language that I included in the legislation last year. The language requires the Small Business Adminis-

tration's outreach efforts aimed at increasing participation in SBIR and STTR, give priority to rural areas, which tend to have low participation in the programs but are nonetheless home to entrepreneurial and innovative small business owners who would benefit from increased outreach.

I thank Chair Gordon, Ranking Member Hall and Chair Wu for their leadership on this legislation, and I look forward to working with them to ensure we expedite completion of this bill before these programs expire at the end of July. Thank you. I yield back.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

Thank you, Mr. Chairman. I'm pleased to support passage of this legislation, the *Enhancing Small Business Research and Innovation Act of 2009.*

With 11 participating agencies and total funding in excess of $2.2 billion, the SBIR and STTR programs reauthorized in this legislation are a key component of the Federal R&D portfolio, serving to facilitate increased private sector commercialization of promising ideas helping the government advance its R&D goals and meet its technology needs.

This legislation makes important improvements to this program, most notably by providing statutory clarity to what have been changing interpretations of the eligibility of majority venture capital-backed small businesses. As we know, both this committee and the Small Business Committee have considered this issue in detail in recent years, and I think the growing consensus in support of the legislation's proposed changes is a strong indication that they are on target-maximizing the eligibility of legitimate small businesses while minimizing the inappropriate eligibility of large businesses.

I also want to note my strong support for Title III of this bill, which includes amendment language that I included in this legislation last year. The language requires the Small Business Administration's outreach efforts—aimed at increasing participation in SBIR and STTR—give priority to rural areas, which tend to have low participation in the programs but are nonetheless home to entrepreneurial and innovative small business owners who would benefit from increased outreach.

I thank Chairman Gordon, Ranking Member Hall, and Chairman Wu for their leadership on this legislation and I look forward to working with them to ensure we expedite completion of this bill before these programs expire at the end of July.

I yield back.

Chair GORDON. Members may place statements in the record at this point.

PREPARED STATEMENT OF REPRESENTATIVE HARRY E. MITCHELL

Thank you, Mr. Chairman.

Today we will mark up H.R. 2965, the Enhancing Small Business Research and Innovation Act of 2009; H.R. 2729, legislation to authorize the designation of National Environmental Research Parks by the Secretary of Energy; and H.R. 1622, legislation to provide for a program of research, development, and demonstration on natural gas vehicles.

H.R. 2965 would strengthen and refine the Small Business Innovation Research (SBIR) Program and promote energy-related research, rare disease-related research, and transportation and infrastructure projects.

As small businesses continue to develop and grow in Arizona, the SBIR Program has become a vital resource.

In my district, small businesses have been partnering with Arizona State University (ASU) to apply to SBIR grants. Together, they are able to conduct comprehensive and groundbreaking research, while also ensuring that local businesses stay innovative and competitive.

I look forward to today's markup of this legislation which I believe would enhance technological competition and help spur economic growth.

I yield back.

Chair GORDON. We will now consider H.R. 2965, the *Enhanced Small Business Research and Innovation Act of 2009.* I recognize the gentleman from Oregon to describe his bill.

Mr. WU. Thank you very much, Mr. Chair. I want to thank you for your generous words and later on perhaps properly allocate that credit elsewhere.

In today's economy, small businesses, where a lot of innovation happens, and the Science and Technology Committee under your leadership, especially the Technology and Innovation Subcommittee, which Mr. Smith and I serve on, intends to promote the science and technology research that will drive an innovation-based economy and create new high-wage, high-value jobs which are not going to go away. At more than $2.3 billion per year, the Small Business Innovative Research and Small Business Technology Transfer programs comprise the largest single source of federal support for technological innovation in the private sector. Given the current economic climate, we need robust SBIR and STTR programs more than ever to create the next generation of companies that will provide high-paying jobs and grow our economy.

These programs originated more than 20 years ago, and given the changes that we have seen during the past two decades, we need to update these programs to reflect the current economic realities of our increasingly competitive innovation economy. The Technology and Innovation Subcommittee has held numerous hearings on SBIR and STTR in the past several years including one as recently as this April. Our witnesses shared many recommendations about how SBIR and STTR can be strengthened.

Recently, H.R. 2965, the *Enhancing Small Business Research and Innovation Act,* was introduced. This bill reauthorizes SBIR and STTR through 2011. The bill increases the phase I awards from $100,000 to $250,000 and phase II awards from $750,000 to $2 million to better reflect the actual costs of doing business in high-tech research and development today. It also increases the flexibility of the SBIR program by allowing cross-agency awards and allowing applicants to apply directly for phase II funding and permits recompeted repetitive phase II awards.

H.R. 2965 allows venture capital, majority venture capital-backed small business to once again apply for awards and specifically defines their eligibility requirements. There has been much debate over the proper role of venture capital participation. The National Academies' report released recently states clearly that venture capital-backed companies are important to technology development and do not crowd out other small businesses.

In addition, the bill expands requirements for agency databases of award recipients and improves accessibility between various agency databases. This will allow for improved future improvement of SBIR as we move to reauthorize in 2011 or 2012 and improved oversight by Congress.

H.R. 2965 also establishes an interagency committee co-chaired by the Director of the White House Office of Science and Technology Policy and the Director of the National Institutes of Standards and Technology to report to Congress on the best practices for commercialization of SBIR- and STTR-funded research.

In closing, this committee has been a leader in passing legislation that advances our innovation agenda. Today we continue that leadership by reauthorizing SBIR and STTR. I want to thank the Chair for his leadership of this committee, for Speaker Pelosi in pushing the innovation agenda, and want to specifically recognize

staff who have worked very, very hard on this legislation over multiple Congresses. I am fond of saying that you don't have to be a rocket scientist to serve on the House Science Committee but you do have to be a rocket scientist to be on staff, and they have done a tremendous job. I want to specifically recognize Mike Quear, who has hung with this project through thick and thin, and also Dennis Worden of my office staff for his fine work on this legislation, and I want to urge all my colleagues to support this bill and yield back the balance of my time.

[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF CHAIR DAVID WU

Thank you, Mr. Chairman. In today's economy, small business is where innovation happens. The Science and Technology Committee, especially the Technology and Innovation Subcommittee, intends to promote the science and technology research that drives an innovation-based economy.

At more than $2.3 billion per year, the Small Business Innovation Research and Small Business Technology Transfer programs comprise the largest source of federal support for technological innovation in the private sector. Given the current economic climate, we need robust SBIR and STTR programs to create the next generation of companies that will provide high-paying jobs and grow our economy.

However, these programs originated more than 20 years ago. Given the economic changes we have seen during the past two decades, we need to update these programs to reflect the current economic realities of our increasingly competitive innovation economy.

The Technology and Innovation Subcommittee has held several hearings on SBIR and STTR in the past several years, including one as recent as April 2009. Our witnesses shared many recommendations about how SBIR and STTR can be strengthened.

Recently, H.R. 2965, the *Enhancing Small Business Research and Innovation Act,* was introduced. This bill reauthorizes the SBIR and STTR programs through 2011.

The bill increases the Phase I awards from $100,000 to $250,000 and Phase II awards from $750,000 to $2 million to better reflect the actual costs of doing high-tech research. It also increases the flexibility of the SBIR program by allowing cross-agency awards and allowing applicants to apply directly for Phase II funding.

H.R. 2965 allows venture capital-backed small businesses to once again apply for awards and specifically defines their eligibility requirements. There has been much debate over the role of venture capital participation, but the National Academies recently released a report stating that venture capital-backed companies had a minimal role in the programs and did not crowd out other small businesses.

In addition, the bill expands requirements for agency databases of award recipients, requiring inter-operability and accessibility between various agency databases. This will allow for improved oversight by Congress on how agencies actually operate SBIR. H.R. 2965 also establishes an Interagency Committee, co-chaired by the Director of the White House Office of Science and Technology Policy and the Director of the National Institutes of Standards and Technology, to report to Congress on the best practices for commercialization of SBIR- and STTR-funded research.

In closing, this committee has been a leader in passing legislation that advances our innovation agenda. Today we continue our leadership by reauthorizing SBIR and STTR. I urge my colleagues to support this bill.

Chair GORDON. Thank you, Mr. Wu, for a job well done, and Mr. Quear, we look forward to riding on your shuttle that I am sure you will be making soon.

I now recognize Mr. Hall.

Mr. HALL. Mr. Chair, I have listened quietly and had advice from the rocket scientists we have on this side of the docket. We like this bill and urge those on this side of the docket to be supportive, and at this time I might yield to Dr. Ehlers any time that I may have.

Mr. EHLERS. I thank the gentleman for yielding. I just want to make a comment on one particular area. I am pleased that the bill before us today leaves the set-aside for the SBIR and STTR pro-

grams unchanged. As you know, this has been a matter of contention for several years. And last year, the House considered legislation which would have increased the set-aside for these programs. However, I offered an amendment on the House Floor which was approved and left the set-asides unchanged. The reason for this is that if you increase the set-asides, you are taking money away from the other agencies and they lose some money that has been allocated to them. A much better approach is to increase the allocation of the other agencies and then that automatically gives a higher percentage to the SBIR and STTR programs. And I think that is a far better approach.

I do note, however, that the Senate has written a bill that was similar to the House bill last year. In other words, they wish to include an increase in the set-aside, which is exactly the opposite of what we want, and I certainly hope that the House conferees will stand strong on this issue when we have the conference with the Senate and continue to take the better route, which is to leave the set-asides unchanged but increase the funding to the base agencies. That is also in accord with the COMPETES Act, which was passed several years ago with a lot of hard work from various Members of this committee, and the intent there also is to increase the allocation to the base agencies and that way everyone benefits. The agencies get more research funds, but at the same time SBIR and STTR get more because that percentage stays the same, and since the base increases, their allocations also increase.

I ask unanimous consent to submit the rest of my statement for the record. I yield back.

[The prepared statement of Mr. Ehlers follows:]

PREPARED STATEMENT OF REPRESENTATIVE VERNON J. EHLERS

I am pleased that the bill before us today leaves the set-aside for the SBIR and STTR programs unchanged. Last year, the House considered legislation which would have increased the set-aside for these programs. However, an amendment I offered to leave the set-asides unchanged was voice-voted on the House Floor.

I believe that the amendment proved to be non-controversial because of the overwhelming support for increasing the funding for these important programs by increasing the overall research funding at agencies. I understand, however, that the Senate version of this legislation does include an increase in the set-aside.

By increasing the set-aside, we would only eat away at the base funding for research available to our scientific agencies. I would much rather see us fight for overall extramural research funding increases which will equivalently benefit the innovation and tech transfer activities of these programs, **and hope that the House conferees will stand strong on this issue in conference with the Senate.**

Two years ago this committee worked very hard to get the COMPETES Authorization bill signed into law, which created a doubling path for several agencies under our jurisdiction. Finding the money to fund these authorizations has not been so easy, but in light of the recent stimulus funding and appropriations bills for fiscal year 2010, many agencies that make SBIR and STTR grants are receiving funding increases.

In fact, if you look at the health of these programs since their creation in 1994, SBIR and STTR have increased by 82 percent and 746 percent, respectively, in inflationary-adjusted real increases in funding. On average, SBIR has received an annual increase of over five percent and STTR has received annual increases over 20 percent. This is due to a combination of increasing the set-aside in the past, as well as the overall extramural agency budgets increasing.

It is my hope that the House conferees will consider supporting SBIR and STTR growth through overall funding increases for our innovation agencies instead of considering increasing the set-asides.

Chair GORDON. Thank you, Dr. Ehlers and Mr. Hall. Does anyone else wish to comment on this bill?

Mr. Peters.

Mr. PETERS. Thank you, Mr. Chair.

The Small Business Innovation and Research Program and Small Business Technology Transfer Program provide critical financial support to the research and development initiatives of small companies. Small firms, of course, are important drivers of advanced technology. Innovations in a variety of fields are increasingly generated by small companies who will ultimately develop a partnership or have their idea purchased by a larger firm. SBIR and STTR are the lifeblood of these small companies and it is important that we continue to support these programs.

Michigan companies compete favorably for SBIR awards, particularly in the Department of Defense program. Over 400 Michigan companies have received SBIR awards over the years and many new companies have been launched as a result, for example, JADI, a company in my district that develops soldier tracking technology and navigation systems that can be used where GPS is not available. JADI was able to form a partnership and launch a new company after a successful Army phase II SBIR award. The company now has a partnership with Raytheon to provide this innovative technology to our military.

H.R. 2965 extends the SBIR/STTR program until 2011 and makes important improvements to the program. My constituents often tell me that venture capital-backed companies should be allowed to participate in SBIR and that doing so will help the best ideas with the greatest chances of commercialization. I am glad to see H.R. 2965 takes this into consideration.

The legislation also promotes greater commercialization efforts and agency initiatives that encourage partnerships between SBIR recipients and business incubators. Many small companies in my district benefit from such partnerships with business incubators, like Automation Alley, and it is important to continue to promote these partnerships at the federal level.

I want to thank Chair Gordon and Ranking Member Hall and Chair Wu and Ranking Member Smith of the Technology and Innovation Subcommittee for their attention to this program and for bringing this important legislation up for consideration today and I urge my colleagues to report it favorably to the House Floor. Thank you, Mr. Chair.

[The prepared statement of Mr. Peters follows:]

PREPARED STATEMENT OF REPRESENTATIVE GARY C. PETERS

Thank you Mr. Chairman.

The Small Business Innovation and Research Program and Small Business Technology Transfer Program provide critical financial support to the research and development initiatives of small companies.

Small firms are important drivers of advanced technology. Innovations in a variety of fields are increasingly generated by small companies who will ultimately develop a partnership or have their idea purchased by a larger firm. SBIR and STTR are the life blood of these small companies, and it is important we continue to support these programs.

Michigan companies compete favorably for SBIR awards, particularly in the DOD Program. Over 400 Michigan companies have received SBIR awards over the years and many new companies have been launched as a result. For example, JADI is a company in my district that developed soldier and first responder tracking technology and navigation systems that can be used where GPS is not available. JADI was able to form a partnership and launch a new company after a successful Army

SBIR awards. The company now has a partnership with Raytheon to provide this innovative technology to our military.

H.R. 2965 extends the SBIR/STTR program until 2011 and makes important improvements to the program. My constituents often tell me that venture capital-backed companies should be allowed to participate in SBIR, and that doing so will help promote the best ideas with the greatest chances of commercialization. I am glad to see H.R. 2965 takes this into consideration.

The legislation also promotes greater commercialization efforts and agency initiatives that encourage partnerships between SBIR recipients and business incubators. Many small companies in my district benefit from such partnerships with business incubators, like Automation Alley, and it is important to continue to promote these partnerships at the federal level.

I want to thank Chairman Gordon and Ranking Member Hall, and Chairman Wu and Ranking Member Smith of the Technology and Innovation Subcommittee for their attention to this program and for bringing this important legislation up for consideration today. I urge my colleagues to report it favorably to the House Floor.

Thank you.

Chair GORDON. Does anyone else wish to be recognized? If not, then I ask unanimous consent that the bill is considered as read and open to amendment at any point and that the Members proceed with the amendments in order of the roster. Without objection, so ordered.

The first amendment on the roster is an amendment offered by the gentleman from Nebraska, Mr. Smith. Are you ready to proceed with your amendment?

Mr. SMITH. Yes.

Chair GORDON. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 2965, amendment number 163, offered by Mr. Smith of Nebraska.

Chair GORDON. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize the gentleman for five minutes to explain his amendment.

Mr. SMITH. Thank you, Mr. Chair. This is a simple and straightforward amendment aimed at improving the stewardship of taxpayer dollars under SBIR and STTR. Specifically, it requires the interagency policy committee established by the bill to consider and report to Congress on whether and how SBIR/STTR should institute a process through which the program can be systematically evaluated and their outcomes can be tracked. It also explicitly states the White House Office of Management and Budget, OMB, shall participate in the interagency committee conducting the review.

The absence of such a systematic evaluation process for SBIR and STTR was identified by the National Research Council in its 2008 assessment of the program. Specifically, the council review concluded that "insufficient data collection, analytic capability and reporting requirements together with the decentralized nature of the program means there is limited ability to make connections between program outcomes and program management and practices."

This amendment is intended to address the concern and ultimately I would hope this process could lead to development of individual agency performance measures and more complete information upon which to base future policy changes. Thank you. I yield back.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE ADRIAN SMITH

Thank you Mr. Chairman. This is a simple and straightforward amendment aimed at improving stewardship of taxpayer dollars under the SBIR and STTR programs. Specifically, it requires the Interagency Policy Committee established by the bill to consider and report to Congress on whether and how SBIR/STTR should institute a process through which the program can be systematically evaluated and awards and their outcomes can be tracked. It also explicitly states the White House Office of Management and Budget shall participate in the interagency committee conducting this review.

The absence of such a systematic evaluation process for SBIR and STTR was identified by the National Research Council (NRC) in its 2008 assessment of the program. Specifically the NRC review concluded that "insufficient data collection, analytic capability, and reporting requirements, together with the decentralized nature of the program, means that there is limited ability to make connections between program outcomes and program management and practices."

This amendment is intended to address this concern, and ultimately I would hope this process could lead to development of individual agency performance measures and more complete information upon which to base future policy changes.

Chair GORDON. Thank you, Mr. Smith, for that constructive amendment.

Is there further discussion on the amendment? If no, the vote occurs on the amendment. All in favor, say aye. Opposed, no. The ayes have it and the amendment is agreed to.

Are there any other amendments? If no, then the vote is on the bill, H.R. 2965, as amended. All those in favor will say aye. All those opposed, say no. In the opinion of the Chair, the ayes have it. I recognize myself to offer a motion.

I move the Committee favorably report H.R. 2965, as amended, to the House with the recommendation that the bill be passed. Furthermore, I move that staff be instructed to prepare the Committee legislative report and make necessary technical and conforming changes and that the Chair take all necessary steps to bring the bill before the House for consideration.

The question is on the motion to report the bill favorably. Those in favor of the motion, say aye. Opposed, no. The ayes have it, and the bill is favorably reported.

Without objection, the motion to reconsider is laid upon the table. Members will have two subsequent calendar days in which to submit supplemental Minority or additional views on this measure.

Let me again in closing say that just because we didn't have a lot of rancor today does not mean that we did not have three very good bills. For some that came in a little after the opening statements, I want to remind you that our first bill was a $2.3 billion authorization for research in small business innovation. It is the largest such program in the Federal Government. When we are talking about creating new jobs for this country, it is going to go a long way, and so I thank you for helping. I want to thank the Members for their attendance. This concludes our Committee markup.

[Whereupon, at 11:40 a.m., the Committee was adjourned.]

Appendix:

H.R. 2965, Section-by-Section Analysis, Amendment Roster

.....
(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. 2965

To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__ _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Enhancing Small Business Research and Innovation Act of 2009".

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

Sec. 1. Short title; table of contents.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

Sec. 101. Extension of termination dates.
Sec. 102. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR and STTR programs.

TITLE II—COMMERCIALIZATION ACTIVITIES AND RESEARCH TOPICS DESERVING SPECIAL CONSIDERATION

Sec. 201. Focus on commercialization.
Sec. 202. Inclusion of energy-related research topics and rare disease-related research topics as deserving "special consideration" as SBIR research topics.
Sec. 203. Nanotechnology-related research topics.
Sec. 204. Clarifying the definition of "Phase Three".
Sec. 205. Agency research goals.
Sec. 206. Commercialization programs.

TITLE III—RURAL DEVELOPMENT AND OUTREACH

Sec. 301. Outreach and support activities.
Sec. 302. Rural preference.
Sec. 303. Obtaining SBIR applicant's consent to release contact information to economic development organizations.
Sec. 304. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.

TITLE IV—SBIR AND STTR ENHANCEMENT

Sec. 401. Increased number of research topic solicitations annually and shortened period for final decisions on applications.
Sec. 402. Agencies should fund vital R&D projects with the potential for commercialization.
Sec. 403. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.
Sec. 404. Funding for administrative, oversight, and contract processing costs.
Sec. 405. Comptroller general audit of how Federal agencies calculate extramural research budgets.
Sec. 406. Agency databases to support program evaluation.
Sec. 407. Agency databases to support technology utilization.
Sec. 408. Interagency Policy Committee.
Sec. 409. National Research Council SBIR Study.
Sec. 410. Express authority to "fast-track" Phase Two awards for promising Phase One research.
Sec. 411. Increased SBIR and STTR award levels.

Sec. 412. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.
Sec. 413. First phase required.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

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 "2011".

(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 "2011".

SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

"(aa) VENTURE CAPITAL OPERATING COMPANIES.—Effective only for the SBIR and STTR programs the following shall apply:

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

1 "(2) In determining whether a small business
2 concern is independently owned and operated under
3 section 3(a)(1) or meets the small business size
4 standards instituted under section 3(a)(2), the Ad-
5 ministrator shall not consider a business concern to
6 be affiliated with a venture capital operating com-
7 pany (or with any other business that the venture
8 capital operating company has financed) if—
9 "(A) the venture capital operating com-
10 pany does not own 50 percent or more of the
11 business concern; and
12 "(B) employees of the venture capital oper-
13 ating company do not constitute a majority of
14 the board of directors of the business concern.
15 "(3) A business concern shall be deemed to be
16 'independently owned and operated' if—
17 "(A) it is owned in majority part by one or
18 more natural persons or venture capital oper-
19 ating companies;
20 "(B) there is no single venture capital op-
21 erating company that owns 50 percent or more
22 of the business concern; and
23 "(C) there is no single venture capital op-
24 erating company the employees of which con-

1 stitute a majority of the board of directors of
2 the business concern.
3 "(4) If a venture capital operating company
4 controlled by a business with more than 500 employ-
5 ees (in this paragraph referred to as a 'VCOC under
6 large business control') has an ownership interest in
7 a small business concern that is owned in majority
8 part by venture capital operating companies, the
9 small business concern is eligible to receive an award
10 under the SBIR or STTR program only if—
11 "(A) not more than two VCOCs under
12 large business control have an ownership inter-
13 est in the small business concern; and
14 "(B) the VCOCs under large business con-
15 trol do not collectively own more than 20 per-
16 cent of the small business concern.
17 "(5) The term 'venture capital operating com-
18 pany' means a business concern—
19 "(A) that—
20 "(i) is a Venture Capital Operating
21 Company, as that term is defined in regu-
22 lations promulgated by the Secretary of
23 Labor; or
24 "(ii) is an entity that—

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

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

"(B) 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 II—COMMERCIALIZATION ACTIVITIES AND RESEARCH TOPICS DESERVING SPECIAL CONSIDERATION

SEC. 201. FOCUS ON COMMERCIALIZATION.

Section 9(a) of the Small Business Act (15 U.S.C. 638(a)) is amended by adding at the end the following: "It is further the policy of Congress that the programs established in this section should focus on promoting research and development of projects governed by commercial business plans, which have significant potential to

1 produce products or services for the marketplace or for
2 acquisition by Federal agencies.''.

3 **SEC. 202. INCLUSION OF ENERGY-RELATED RESEARCH**
4 **TOPICS AND RARE DISEASE-RELATED RE-**
5 **SEARCH TOPICS AS DESERVING ''SPECIAL**
6 **CONSIDERATION'' AS SBIR RESEARCH TOP-**
7 **ICS.**

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

10 (1) in the matter preceding subparagraph (A)
11 by inserting after ''critical technologies'' the fol-
12 lowing: ''or pressing research priorities'';

13 (2) at the end of subparagraph (A) by striking
14 ''or''; and

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

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

22 ''(D) the National Institutes of Health, in
23 the annual report on the rare diseases research
24 activities of the National Institutes of Health
25 for fiscal year 2005, and in subsequent reports

1 issued by the National Institutes of Health on
2 rare diseases research activities; or
3 "(E) the National Academy of Sciences, in
4 the final report issued by the 'Transit Research
5 and Development: Federal Role in the National
6 Program' project and the 'Transportation Re-
7 search, Development and Technology Strategic
8 Plan (2006–2010)' issued by the United States
9 Department of Transportation Research and
10 Innovative Technology Administration, and in
11 subsequent reports issued by the National
12 Academy of Sciences and United States Depart-
13 ment of Transportation on transportation and
14 infrastructure;".

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

16 (a) SBIR.—Section 9(g)(3) of the Small Business
17 Act (15 U.S.C. 638(g)(3)), as amended, is further amend-
18 ed—
19 (1) at the end of subparagraph (D) by striking
20 "or";
21 (2) at the end of subparagraph (E) by adding
22 "or"; and
23 (3) by adding at the end the following:
24 "(F) the national nanotechnology strategic
25 plan required under section 2(c)(4) of the 21st

1 Century Nanotechnology Research and Develop-
2 ment Act (15 U.S.C. 7501(c)(4)) and in subse-
3 quent reports issued by the National Science
4 and Technology Council Committee on Tech-
5 nology, focusing on areas of nanotechnology
6 identified in such plan;".
7 (b) STTR.—Section 9(o)(3) of the Small Business
8 Act (15 U.S.C. 638(o)(3)) is amended—
9 (1) at the end of subparagraph (A) by striking
10 "or";
11 (2) at the end of subparagraph (B) by adding
12 "or"; and
13 (3) by adding at the end the following:
14 "(C) by the national nanotechnology stra-
15 tegic plan required under section 2(c)(4) of the
16 21st Century Nanotechnology Research and De-
17 velopment Act (15 U.S.C. 7501(c)(4)) and in
18 subsequent reports issued by the National
19 Science and Technology Council Committee on
20 Technology, focusing on areas of
21 nanotechnology identified in such plan;".
22 **SEC. 204. CLARIFYING THE DEFINITION OF "PHASE**
23 **THREE".**
24 Section 9(e) of the Small Business Act (15 U.S.C.
25 638(e)) is amended—

1 (1) in paragraph (4)(C) in the matter preceding
2 clause (i) by inserting after "a third phase" the fol-
3 lowing: ", which shall consist of work that derives
4 from, extends, or logically concludes efforts per-
5 formed under prior SBIR funding agreements
6 (which may be referred to as 'Phase III')";
7 (2) in paragraph (8) by striking "and" at the
8 end;
9 (3) in paragraph (9) by striking the period at
10 the end and inserting "; and"; and
11 (4) by adding at the end the following:
12 "(10) the term 'commercialization' means the
13 process of developing marketable products or serv-
14 ices and producing and delivering products or serv-
15 ices for sale (whether by the originating party or by
16 others) to government or commercial markets.".

17 **SEC. 205. AGENCY RESEARCH GOALS.**

18 Section 9 of the Small Business Act (15 U.S.C. 638),
19 as amended, is further amended by striking subsection (h)
20 and inserting the following:
21 "(h) AGENCY RESEARCH GOALS.—
22 "(1) IN GENERAL.—In addition to the require-
23 ments of subsection (f), each Federal agency that is
24 required by this section to have an SBIR program
25 and that awards annually $5,000,000,000 or more

1 in procurement contracts shall, effective for fiscal
2 year 2010 and each fiscal year thereafter, establish
3 annual goals for commercialization of projects fund-
4 ed by SBIR awards.

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

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

11 "(B) The percentage of SBIR projects that
12 are successfully integrated into a program of
13 record.

14 "(C) The amount of Federal dollars re-
15 ceived by SBIR projects through Federal con-
16 tracts, not including dollars received through
17 the SBIR program.

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

1 "(A) not later than 60 days after the be-
2 ginning of the fiscal year, the goals; and
3 "(B) not later than 90 days after the end
4 of the fiscal year, data on the extent to which
5 the goals were met and a description of the
6 methodology used to collect such data.".

7 **SEC. 206. COMMERCIALIZATION PROGRAMS.**

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

11 "(bb) COMMERCIALIZATION PROGRAMS.—

12 "(1) IN GENERAL.—Each agency required by
13 this section to conduct an SBIR program shall es-
14 tablish a commercialization program that supports
15 the progress of SBIR awardees to the third phase.
16 The commercialization program may include activi-
17 ties such as partnership databases, partnership con-
18 ferences, multiple second phases, mentoring between
19 prime contractors and SBIR awardees, multiple sec-
20 ond phases with matching private investment re-
21 quirements, jumbo awards, SBIR helpdesks, and
22 transition assistance programs. The agency shall in-
23 clude in its annual report an analysis of the various
24 activities considered for inclusion in the commer-
25 cialization program and a statement of the reasons

1 why each activity considered was included or not in-
2 cluded, as the case may be.
3 "(2) FUNDING FOR COMMERCIALIZATION PRO-
4 GRAMS.—
5 "(A) IN GENERAL.—From amounts made
6 available to carry out this paragraph, the Ad-
7 ministrator may, on petition by agencies re-
8 quired by this section to conduct an SBIR pro-
9 gram, transfer funds to such agencies to sup-
10 port the commercialization programs of such
11 agencies.
12 "(B) PETITIONS.—The Administrator shall
13 establish rules for making transfers under sub-
14 paragraph (A). The initial set of rules shall be
15 promulgated not later than 90 days after the
16 date of the enactment of this paragraph.
17 "(C) AUTHORIZATION OF APPROPRIA-
18 TIONS.—There is authorized to be appropriated
19 to the Administrator to carry out this para-
20 graph $27,500,000 for fiscal year 2010 and
21 each fiscal year thereafter.
22 "(3) FUNDING LIMITATION.—For payment of
23 expenses incurred to administer the commercializa-
24 tion programs described in paragraphs (1) and (2),
25 the head of an agency may use not more than an

1 amount equal to 1 percent of the funds set aside for
2 the agency's Small Business Innovation Research
3 program. Such funds—
4 "(A) shall not be subject to the limitations
5 on the use of funds in subsection (f)(2); and
6 "(B) shall not be used for the purpose of
7 funding costs associated with salaries and ex-
8 penses of employees of the Federal Govern-
9 ment.".

10 TITLE III—RURAL 11 DEVELOPMENT AND OUTREACH

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

13 Section 9 of the Small Business Act (15 U.S.C. 638),
14 as amended, is further amended by inserting after sub-
15 section (r) the following:
16 "(s) OUTREACH AND SUPPORT ACTIVITIES.—
17 "(1) IN GENERAL.—Subject to the other provi-
18 sions of this subsection, the Administrator shall
19 make grants on a competitive basis to organizations,
20 to be used by the organizations to do one or both
21 of the following:
22 "(A) To conduct outreach efforts to in-
23 crease participation in the programs under this
24 section.

1 "(B) To provide application support and
2 entrepreneurial and business skills support to
3 prospective participants in the programs under
4 this section.
5 "(2) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Ad-
7 ministrator $10,000,000 to carry out paragraph (1)
8 for each of fiscal years 2010 and 2011.
9 "(3) AMOUNT OF ASSISTANCE.—For each of
10 subparagraphs (A) and (B) of paragraph (1), the
11 amount of assistance provided to an organization
12 under that subparagraph in any fiscal year—
13 "(A) shall be equal to the total amount of
14 matching funds from non-Federal sources pro-
15 vided by the organization; and
16 "(B) shall not exceed $250,000.
17 "(4) DIRECTION.—An organization receiving
18 funds under paragraph (1) shall, in using those
19 funds, direct its activities at one or both of the fol-
20 lowing:
21 "(A) Small business concerns located in
22 geographic areas that are underrepresented in
23 the programs under this section.
24 "(B) Small business concerns owned and
25 controlled by women, small business concerns

1 owned and controlled by service-disabled vet-
2 erans, and small business concerns owned and
3 controlled by minorities.
4 "(5) ADVISORY BOARD.—
5 "(A) ESTABLISHMENT.—Not later than 90
6 days after the date of the enactment of this
7 subsection, the Administrator shall establish an
8 advisory board for the activities carried out
9 under this subsection.
10 "(B) NON-APPLICABILITY OF FACA.—The
11 Federal Advisory Committee Act (5 U.S.C.
12 App.) shall not apply to the advisory board.
13 "(C) MEMBERS.—The members of the ad-
14 visory board shall include the following:
15 "(i) The Administrator (or the Ad-
16 ministrator's designee).
17 "(ii) For each Federal agency re-
18 quired by this section to conduct an SBIR
19 program, the head of the agency (or the
20 designee of the head of the agency).
21 "(iii) Representatives of small busi-
22 ness concerns that are current or former
23 recipients of SBIR awards, or representa-
24 tives of organizations of such concerns.

1 "(iv) Representatives of service pro-
2 viders of SBIR outreach and assistance, or
3 representatives of organizations of such
4 service providers.
5 "(D) DUTIES.—The advisory board shall
6 have the following duties:
7 "(i) To develop guidelines for awards
8 under paragraph (1), including guidelines
9 relating to award sizes, proposal require-
10 ments, measures for monitoring awardee
11 performance, and measures for deter-
12 mining the overall value of the activities
13 carried out by the awardees.
14 "(ii) To identify opportunities for co-
15 ordinated outreach, technical assistance,
16 and commercialization activities among
17 Federal agencies, the recipients of the
18 awards under paragraph (1), and appli-
19 cants and recipients of SBIR awards, in-
20 cluding opportunities such as—
21 "(I) podcasting or webcasting for
22 conferences, training workshops, and
23 other events;
24 "(II) shared online resources to
25 match prospective applicants with the

1 network of paragraph (1) recipients;
2 and
3 "(III) venture capital conferences
4 tied to technologies and sectors that
5 cross agencies.
6 "(iii) To review and recommend revi-
7 sions to activities under paragraph (1).
8 "(iv) To submit to the Committee on
9 Small Business and Entrepreneurship of
10 the Senate and the Committee on Small
11 Business and the Committee on Science
12 and Technology of the House of Represent-
13 atives an annual report on the activities
14 carried out under paragraph (1) and the
15 effectiveness and impact of those activities.
16 "(6) SELECTION CRITERIA.—In awarding
17 grants under this subsection, the Administrator shall
18 use selection criteria developed by the advisory board
19 established under paragraph (5). The criteria shall
20 include—
21 "(A) criteria designed to give preference to
22 applicants who propose to carry out activities
23 that will reach either an underperforming geo-
24 graphic area or an underrepresented population

1 group (as measured by the number of SBIR ap-
2 plicants);
3 "(B) criteria designed to give preference to
4 applicants who propose to carry out activities
5 that complement, and are integrated into, the
6 existing public-private innovation support sys-
7 tem for the targeted region or population;
8 "(C) criteria designed to give preference to
9 applicants who propose to measure the effec-
10 tiveness of the proposed activities; and
11 "(D) criteria designed to give preference to
12 applicants who include a Small Business Devel-
13 opment Center program that is accredited for
14 its technology services.
15 "(7) PEER REVIEW.—In awarding grants under
16 this subsection, the Administrator shall use a peer
17 review process. Reviewers shall include—
18 "(A) SBIR program managers for agencies
19 required by this section to conduct SBIR pro-
20 grams; and
21 "(B) private individuals and organizations
22 that are knowledgeable about SBIR, the innova-
23 tion process, technology commercialization, and
24 State and regional technology-based economic
25 development programs.

1 "(8) PER-STATE LIMITATIONS.—

2 "(A) IN GENERAL.—To be eligible to re-
3 ceive a grant under this subsection, the appli-
4 cant must have the written endorsement of the
5 Governor of the State where the targeted re-
6 gions or populations are located (if the regions
7 or populations are located in more than one
8 State, the applicant must have the written en-
9 dorsement of the Governor of each such State).
10 Such an endorsement must indicate that the
11 Governor will ensure that the activities to be
12 carried out under the grant will be integrated
13 with the balance of the State's portfolio of in-
14 vestments to help small business concerns com-
15 mercialize technology.

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

22 "(9) SPECIFIC REQUIREMENTS FOR AWARDS.—
23 In making awards under paragraph (1) the Admini-
24 trator shall ensure that each award shall be for a pe-
25 riod of 2 fiscal years. The Administrator shall estab-

1 lish rules and performance goals for the disburse-
2 ment of funds for the second fiscal year, and funds
3 shall not be disbursed to a recipient for such a fiscal
4 year until after the advisory board established under
5 this subsection has determined that the recipient is
6 in compliance with the rules and performance
7 goals.".

8 **SEC. 302. RURAL PREFERENCE.**

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

12 "(cc) RURAL PREFERENCE.—In making awards
13 under this section, Federal agencies shall give priority to
14 applications so as to increase the number of SBIR and
15 STTR award recipients from rural areas.".

16 **SEC. 303. OBTAINING SBIR APPLICANT'S CONSENT TO RE-**
17 **LEASE CONTACT INFORMATION TO ECO-**
18 **NOMIC DEVELOPMENT ORGANIZATIONS.**

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

22 "(dd) CONSENT TO RELEASE CONTACT INFORMA-
23 TION TO ORGANIZATIONS.—

24 "(1) ENABLING CONCERN TO GIVE CONSENT.—
25 Each Federal agency required by this section to con-

1 duct an SBIR program shall enable a small business
2 concern that is an SBIR applicant to indicate to the
3 agency whether the agency has its consent to—
4 "(A) identify the concern to appropriate
5 local and State-level economic development or-
6 ganizations as an SBIR applicant; and
7 "(B) release the concern's contact informa-
8 tion to such organizations.
9 "(2) RULES.—The Administrator shall estab-
10 lish rules to implement this subsection. The rules
11 shall include a requirement that the agency include
12 in its SBIR application forms a provision through
13 which the applicant can indicate consent for pur-
14 poses of paragraph (1).".

15 **SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR**
16 **AWARDEES AND PRIME CONTRACTORS, VEN-**
17 **TURE CAPITAL INVESTMENT COMPANIES,**
18 **AND LARGER BUSINESSES.**

19 Section 9 of the Small Business Act (15 U.S.C. 638),
20 as amended, is further amended by adding at the end the
21 following:
22 "(ee) INCREASED PARTNERSHIPS.—
23 "(1) IN GENERAL.—Each agency required by
24 this section to conduct an SBIR program shall es-
25 tablish initiatives by which the agency encourages

1 partnerships between SBIR awardees and prime
2 contractors, venture capital investment companies,
3 business incubators, and larger businesses, for the
4 purpose of facilitating the progress of the SBIR
5 awardees to the third phase.
6 "(2) DEFINITION.—In this subsection, the term
7 'business incubator' means an entity that provides
8 coordinated and specialized services to entrepre-
9 neurial businesses which meet selected criteria dur-
10 ing the businesses' startup phases, including pro-
11 viding services such as shared office space and office
12 services, access to equipment, access to telecommuni-
13 cations and technology services, flexible leases, spe-
14 cialized management assistance, access to financing,
15 mentoring and training services, or other coordi-
16 nated business or technical support services designed
17 to provide business development assistance to entre-
18 preneurial businesses during these businesses' start-
19 up phases."

TITLE IV—SBIR AND STTR ENHANCEMENT

SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY AND SHORTENED PERIOD FOR FINAL DECISIONS ON APPLICATIONS.

(a) INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY.—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 the Small Business Act (15 U.S.C. 638(g)(4)) is amended by inserting before the semicolon at the end the following: ", but a final decision on each proposal shall be rendered not later than 90 days after the date on which the solicitation closes unless the Administrator determines, on a case by case basis, that a decision may be extended from 90 days to 180 days".

1 **SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS**
2 **WITH THE POTENTIAL FOR COMMERCIALIZA-**
3 **TION.**

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

7 "(ff) MULTIPLE FIRST PHASE SBIR AWARDS RE-
8 PORT.—The Administrator shall, on an annual basis, sub-
9 mit to the Committee on Small Business and the Com-
10 mittee on Science and Technology of the House of Rep-
11 resentatives and the Committee on Small Business and
12 Entrepreneurship of the Senate a list identifying each
13 small business concern that, for the period covered by the
14 preceding 5 fiscal years, received 15 or more first phase
15 SBIR awards and no second phase SBIR awards.".

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

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

23 "(gg) REQUIREMENTS RELATING TO FEDERAL
24 AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE
25 SBIR AWARDEES.—Each Federal agency required by this
26 section to conduct an SBIR program shall engage with

1 SBIR awardees that have been awarded multiple first
2 phase SBIR awards but have not been awarded any sec-
3 ond phase SBIR awards and shall develop performance
4 measures with respect to awardee progression in the SBIR
5 program.".

6 **SEC. 404. FUNDING FOR ADMINISTRATIVE, OVERSIGHT,**
7 **AND CONTRACT PROCESSING COSTS.**

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

11 "(hh) ASSISTANCE FOR ADMINISTRATIVE, OVER-
12 SIGHT, AND CONTRACT PROCESSING COSTS.—

13 "(1) IN GENERAL.—From amounts made avail-
14 able to carry out this subsection, the Administrator
15 may, on petition by Federal agencies required by
16 this section to conduct an SBIR program, transfer
17 funds to such agencies to assist with the administra-
18 tive, oversight, and contract processing costs relating
19 to such program.

20 "(2) PETITIONS.—The Administrator shall es-
21 tablish rules for making transfers under paragraph
22 (1). The initial set of rules shall be promulgated not
23 later than 180 days after the date of the enactment
24 of this subsection.

1 "(3) LIMIT ON TRANSFER.—A Federal agency
2 may not receive under this subsection in a fiscal
3 year an amount greater than 3 percent of the SBIR
4 budget of such agency for such fiscal year.
5 "(4) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Ad-
7 ministrator to carry out this subsection $27,500,000
8 for each of fiscal years 2010 and 2011.".

9 **SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FED-**
10 **ERAL AGENCIES CALCULATE EXTRAMURAL**
11 **RESEARCH BUDGETS.**

12 The Comptroller General of the United States shall
13 carry out a detailed audit of how Federal agencies cal-
14 culate extramural research budgets for purposes of calcu-
15 lating the size of the agencies' Small Business Innovation
16 Research Program and Small Business Technology Trans-
17 fer Program budgets. Not later than 1 year after the date
18 of the enactment of this Act, the Comptroller General shall
19 submit to the Committee on Small Business and the Com-
20 mittee on Science and Technology of the House of Rep-
21 resentatives and the Committee on Small Business and
22 Entrepreneurship of the Senate a report on the results
23 of the audit.

1 **SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM**
2 **EVALUATION.**
3 Section 9(k) of the Small Business Act (15 U.S.C.
4 638(k)) is amended—
5 (1) in paragraph (2)(A)—
6 (A) by striking "and" at the end of clause
7 (ii);
8 (B) by inserting "and" at the end of clause
9 (iii); and
10 (C) by adding at the end the following new
11 clause:
12 "(iv) information on the ownership
13 structure of award recipients, both at the
14 time of receipt of the award and upon com-
15 pletion of the award period;";
16 (2) by amending paragraph (3) to read as fol-
17 lows:
18 "(3) UPDATING INFORMATION FOR DATA-
19 BASE.—
20 "(A) IN GENERAL.—A Federal agency
21 shall not make a Phase I or Phase II payment
22 to a small business concern under this section
23 unless the small business concern has provided
24 all information required under this subsection
25 and available at the time with respect to the
26 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

1 phase or second phase award, be required
2 to update such information annually there-
3 after for a period of 5 years."; and
4 (3) by adding at the end the following new
5 paragraph:
6 "(6) AGENCY PROGRAM EVALUATION DATA-
7 BASES.—Each Federal agency required to establish
8 an SBIR or STTR program under this section shall
9 develop and maintain, for the purpose of evaluating
10 such programs, a database containing information
11 required to be contained in the database under para-
12 graph (2). Each such database shall be designed to
13 be accessible to other agencies that are required to
14 maintain a database under this paragraph. Each
15 such database shall be developed and operated in a
16 manner to ensure that each such database is rel-
17 evant to and contributes to the agency's oversight
18 and evaluation of the SBIR and STTR programs.
19 Paragraphs (4) and (5) apply to each database
20 under this paragraph.".

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

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

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

23 **SEC. 408. INTERAGENCY POLICY COMMITTEE.**

24 (a) ESTABLISHMENT.—The Director of the Office of
25 Science and Technology Policy shall establish an Inter-

1 agency SBIR/STTR Policy Committee comprised of one
2 representative from each Federal agency with an SBIR
3 program.

4 (b) COCHAIRS.—The Director of the Office of Science
5 and Technology Policy and the Director of the National
6 Institute of Standards and Technology shall jointly chair
7 the Interagency SBIR/STTR Policy Committee.

8 (c) DUTIES.—The Interagency SBIR/STTR Policy
9 Committee shall review the following issues and make pol-
10 icy recommendations on ways to improve program effec-
11 tiveness and efficiency:

12 (1) The public and government databases de-
13 scribed in section 9(k) (1) and (2) of the Small
14 Business Act (15 U.S.C. 638(k) (1) and (2)).

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

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

1 (d) REPORTS.—The Interagency SBIR/STTR Policy
2 Committee shall transmit to the Committee on Science
3 and Technology and the Committee on Small Business of
4 the House of Representatives, and to the Committee on
5 Small Business and Entrepreneurship of the Senate—
6 (1) a report on its review and recommendations
7 under subsection (c)(1) not later than 1 year after
8 the date of enactment of this Act;
9 (2) a report on its review and recommendations
10 under subsection (c)(2) not later than 18 months
11 after the date of enactment of this Act; and
12 (3) a report on its review and recommendations
13 under subsection (c)(3) not later than 2 years after
14 the date of enactment of this Act.

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

16 Section 108(d) of the Small Business Reauthoriza-
17 tion Act of 2000, enacted into law by reference under sec-
18 tion 1(a)(9) of the Consolidated Appropriations Act, 2001
19 (Public Law 106–554), is amended—
20 (1) by striking "of the Senate" and all that fol-
21 lows through "not later than 3" and inserting "of
22 the Senate, not later than 3"; and
23 (2) by striking "; and" and all that follows
24 through "update of such report".

1 **SEC. 410. EXPRESS AUTHORITY TO "FAST-TRACK" PHASE**
2 **TWO AWARDS FOR PROMISING PHASE ONE**
3 **RESEARCH.**

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

7 "(ii) AUTHORITY TO 'FAST-TRACK' PHASE TWO
8 AWARDS FOR PROMISING PHASE ONE RESEARCH.—To
9 address the delay between an award for the first phase
10 of an SBIR program and the application for and extension
11 of an award for the second phase of such program, each
12 Federal agency with an SBIR program may develop 'fast-
13 track' programs to eliminate such delay by issuing second
14 phase SBIR awards as soon as practicable, including in
15 appropriate cases simultaneously with the issuance of the
16 first phase SBIR award. The Administrator shall encour-
17 age the development of such 'fast-track' programs.".

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

19 (a) SBIR AWARD LEVEL AND ANNUAL ADJUST-
20 MENTS.—Section 9(j) of the Small Business Act (15
21 U.S.C. 638(j)) is amended by adding at the end the fol-
22 lowing:

23 "(4) FURTHER ADDITIONAL MODIFICATIONS.—Not
24 later than 180 days after the date of enactment of this
25 paragraph and notwithstanding paragraph (2)(D), the Ad-
26 ministrator shall modify the policy directives issued pursu-

1 ant to this subsection to provide for an increase to
2 $250,000 in the amount of funds which an agency may
3 award in the first phase of an SBIR program, and to
4 $2,000,000 in the second phase of an SBIR program, and
5 a mandatory annual adjustment of such amounts to reflect
6 economic adjustments and programmatic considerations.".
7 (b) STTR AWARD LEVEL AND ANNUAL ADJUST-
8 MENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act
9 (15 U.S.C. 638(p)(2)(B)(ix)) is amended—
10 (1) by striking "$100,000" and "$750,000"
11 and inserting "$250,000" and "$2,000,000", re-
12 spectively; and
13 (2) by striking "greater or lesser amounts" and
14 inserting "with a mandatory annual adjustment of
15 such amounts to reflect economic adjustments and
16 programmatic considerations, and with lesser
17 amounts".
18 (c) LIMITATION ON CERTAIN AWARDS.—Section 9 of
19 the Small Business Act (15 U.S.C. 638), as amended, is
20 further amended by adding at the end the following:
21 "(jj) LIMITATION ON PHASE I AND II AWARDS.—No
22 Federal agency shall issue an award under the SBIR pro-
23 gram or the STTR program if the size of the award ex-
24 ceeds the amounts established under subsections (j)(4)
25 and (p)(2)(B)(ix).".

1 **SEC. 412. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**
2 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**
3 **FUNDED PROJECTS.**

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

7 "(kk) REQUIREMENTS RELATING TO ADDITIONAL
8 SECOND PHASE SBIR AWARDS.—

9 "(1) IN GENERAL.—A small business concern
10 that receives a second phase SBIR award for a
11 project remains eligible to receive additional second
12 phase SBIR awards for such project.

13 "(2) TECHNICAL OR WEAPONS SYSTEMS.—
14 Agencies are expressly authorized to provide addi-
15 tional second phase SBIR awards for testing and
16 evaluation assistance for the insertion of SBIR tech-
17 nologies into technical or weapons systems.".

18 **SEC. 413. FIRST PHASE REQUIRED.**

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

22 "(ll) FIRST PHASE REQUIRED.—Under this section,
23 a Federal agency shall provide to a small business concern
24 an award for the second phase of an SBIR program with
25 respect to a project only if such agency finds that the
26 small business concern has been provided an award for

1 the first phase of an SBIR program with respect to such
2 project or has completed the determinations described in
3 subsection (e)(4)(A) with respect to such project despite
4 not having been provided an award for the first phase.''.

SECTION-BY-SECTION ANALYSIS OF
H.R. 2965, THE ENHANCING SMALL BUSINESS
RESEARCH AND INNOVATION ACT OF 2009

Sec. 1. Short Title; Table of Contents

"Enhancing Small Business Research and Innovation Act of 2009"

Title I. Program Extension and Venture Capital Operating Company Involvement

Sec. 101. Extension of Termination Dates

Amends the Small Business Act to extend through FY 2011 the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs of the Small Business Administration (SBA).

Sec. 102. Ensuring that Innovative Small Businesses with Substantial Investment from Venture Capital Operating Companies are Eligible to Participate in the SBIR and STTR Programs

Provides that, effective only for the SBIR and STTR programs: (1) a business concern that has more than 500 employees shall not qualify as a small business concern; (2) in determining whether a small business concern is independently owned and operated, the SBA Administrator shall not consider a business concern to be affiliated with a venture capital operating company if the venture capital operating company (VCOC) does not own 50 percent or more of the business concern and employees of the VCOC do not constitute a majority of the board of directors of the business concern; (3) a business concern shall be deemed to be independently owned and operated if it is owned in majority part by one or more natural persons or VCOCs, there is no single VCOC that owns 50 percent or more of the business concern, and there is no single VCOC the employees of which constitute a majority of the board of directors of the business concern; and (4) if a VCOC controlled by a business with more than 500 employees has an ownership interest in a small business owned in majority by VCOCs, that small business is eligible to receive an SBIR or STTR award only if not more than two of such VCOCs have an ownership interest in the small business and such VCOCs do not collectively own more than 20 percent of the small business.

Defines the term "venture capital operating company".

Title II. Commercialization Activities and Research Topics Deserving Special Consideration

Sec. 201. Focus on Commercialization

Amends section 9 to modify the purpose and policy of the SBIR and STTR programs as follows:

"It is further the policy of Congress that the purpose of the programs established in this section should focus on promoting research and the development of projects governed by commercial business plans, which have significant potential to produce products or services for the marketplace or for acquisition by federal agencies."

Sec. 202. Inclusion of Energy-Related Research Topics and Rare Disease-Related Research Topics as Deserving 'Special Consideration' as SBIR Research Topics

Includes energy-related research (as identified by 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), rare disease-related research (as identified by the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institute of Health for fiscal year 2005, and in subsequent reports issued by the National Institutes of Health on rare diseases research activities), and transportation and infrastructure research (as identified by the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the 'Transportation Research, Development and Technology Strategic Plan (2006–2010)' issued by the United States Department of Transportation Research and Innovative Technology Administration, and in subsequent reports issued by the National Academy of Sciences and United States De-

partment of Transportation on transportation and infrastructure) as "special consideration" SBIR research topics.

Sec. 203. Nanotechnology-Related Research Topics

Includes nanotechnology research (as identified by the national nanotechnology strategic plan required under section 2(c)(4) of the *21st Century Nanotechnology Research and Development Act* and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan) as a "special consideration" SBIR and STTR research topic.

Sec. 204. Clarifying the Definition of "Phase Three"

Clarifies that the "third phase" of the SBIR program "shall consist of work that derives, extends, or logically concludes efforts performed under prior SBIR funding agreements (which may be referred to as 'Phase III')."

Also provides that 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. 205. Agency Research Goals

Requires agencies with SBIR programs that award annually $5 billion or more in procurement contracts to establish annual goals for commercialization of projects funded by SBIR awards. Outlines specific goals required, including: (1) the percentage of SBIR projects that receive private sector funds during the third phase; (2) the percentage of SBIR projects that are integrated into a program of record; and (3) the amount of federal dollars received by SBIR projects through federal contracts, not including dollars received through the SBIR program.

Requires that the goals be reported not later than 60 days after the beginning of the fiscal year and the extent to which the goals were met and a description of the methodology used to collect such data be reported not later than 90 days after the end of the fiscal year 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.

Sec. 206. Commercialization Program

Requires each agency to establish a commercialization program that supports the progression of SBIR awardees to the third phase.

Requires 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 to be submitted to Congress.

Authorizes $27.5 million in funding to SBA, to be transferred to agencies to support commercialization programs. Specifies that agencies may not use more than an amount equal to one percent of the funds set aside for the agency's SBIR program to administer the commercialization program.

Title III. Rural Development and Outreach

Sec. 301. Outreach and Support Activities

Directs the Administrator to make grants on a competitive basis to organizations to: (1) conduct outreach efforts to increase participation in the programs; and (2) provide application support and entrepreneurial and business skills support to prospective participants.

Authorizes $10 million for each of fiscal years 2010 and 2011 to carry out these outreach and support activities.

Provides that the amount of assistance provided to an organization in any fiscal year shall be equal to the total amount of matching funds from non-federal sources provided by the organization and shall not exceed $250,000.

Requires organizations receiving grants to direct activities towards small business concerns located in geographic areas that are under-represented in the programs and/or small business concerns owned and controlled by women, by service-disabled veterans, and by minorities.

Requires the Administrator to establish an advisory board for outreach and support activities. Members of the advisory board shall include the Administrator (or the Administrator's designee), the head (or the designee of the head) of each federal agency with an SBIR program, representatives of small business concerns that are current or former recipients of SBIR awards, and representatives of service pro-

viders of SBIR outreach and assistance. Assigns the following duties to the advisory board: (1) to develop guidelines for outreach awards; (2) to identify opportunities for coordinated outreach, technical assistance, and commercialization activities among federal agencies, the recipients of the outreach awards, and applicants and recipients of SBIR awards; (3) to review and recommend revisions to outreach activities; and (4) 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 outreach activities and the effectiveness and impact of those activities.

Requires the Administrator to use selection criteria developed by the advisory board in awarding grants, including criteria designed to give preference to applicants who: (1) propose to carry out activities that will reach either an under-performing geographic area or an under-represented population group; (2) propose to carry out activities that complement the existing public-private innovation support system for the targeted region or population; (3) propose to measure to effectiveness of the proposed activities; and (4) include a Small Business Development Center program that is accredited for its technology services.

Specifies that, in awarding grants, the Administrator is to use a peer review process.

States that, to be eligible to receive a grant, the applicant must have the written endorsement of the Governor of the State where the targeted regions or populations are located. Specifies that the 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. Includes a limitation stating that, each fiscal year, a Governor may have in effect not more than one written endorsement for an outreach grant and not more than one written endorsement for a support grant.

Provides that each award shall be for a period of two fiscal years.

Sec. 302. Rural Preference

Requires agencies to give priority to SBIR and STTR award applications so as to increase the number of award recipients from rural areas.

Sec. 303. Obtaining SBIR Applicant's Consent to Release Contact Information to Economic Development Organizations

Requires each agency to enable an SBIR applicant to indicate whether the agency has its consent to identify the applicant to appropriate local and State-level economic development organizations as an applicant and release the applicant's contact information to such organizations.

Sec. 304. Increased Partnerships Between SBIR Awardees and Prime Contractors, Venture Capital Investment Companies, and Larger Businesses

Directs each agency to establish initiatives to encourage partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses in order to facilitate the progress of SBIR awardees to the third phase.

Defines "business incubator."

Title IV. SBIR and STTR Enhancement

Sec. 401. Increased Number of Research Topic Solicitations Annually and Shortened Period for Final Decisions on Applications

Requires the Administrator to establish by regulation a process in which each agency conducts at least two rounds of SBIR research solicitations per year, and renders a final decision on each proposal within 90 days after the solicitation closes (with an authorized extension to 180 days on a case-by-case basis).

Sec. 402. Agencies Should Fund Vital R&D Projects with the Potential for Commercialization

Requires the Administrator to submit annually 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 of small businesses that, during the previous five-year period, received 15 or more first phase SBIR awards and no second phase SBIR awards.

Sec. 403. Federal Agency Engagement with SBIR Awardees that Have Been Awarded Multiple Phase One Awards But Have Not Been Awarded Phase Two Awards

Requires each agency to engage with SBIR awardees that have been awarded multiple first phase awards but no second phase awards, and to develop performance measures with respect to awardee progression in the SBIR program.

Sec. 404. Funding for Administrative, Oversight, and Contract Processing Costs.

Authorizes $27.5 million for each of fiscal years 2010 and 2011 to the Administrator, to be transferred to agencies, to assist with the administrative, oversight, and contract processing costs relating to the SBIR program. States that an agency may not receive in a fiscal year an amount greater than three percent of the SBIR budget of such agency for such fiscal year under this subsection.

Sec. 405. Comptroller General Audit of How Federal Agencies Calculate Extramural Research Budgets

Requires GAO to carry out a detailed audit of how federal agencies calculate extramural research budgets for purposes of calculating the size of the agencies' SBIR and STTR budgets.

Requires that GAO submit a report on the results of the audit within one year of the date of enactment 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.

Sec. 406. Agency Databases to Support Program Evaluation

Requires that the government database for SBIR and STTR program evaluation include information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period.

Requires: (1) SBIR and STTR small business participants to provide updated information for purposes of updating the government database for SBIR and STTR program evaluation; and (2) participating agencies to develop and maintain such databases.

Sec. 407. Agency Databases to Support Technology Utilization

Requires each agency to create and maintain a technology utilization database, available to the public and containing data supplied by award recipients, to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors or business partners. Participation in a database shall be voluntary, except that participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award.

Sec. 408. Interagency Policy Committee

Requires the Director of the Office of Science and Technology Policy (OSTP) to establish an Interagency SBIR/STTR Policy Committee comprised of one representative from each federal agency with an SBIR program. Specifies that the Director of OSTP and the Director of the National Institute of Standards and Technology shall jointly chair the committee.

Requires the committee to review the following issues and make policy recommendations on ways to improve the program effectiveness and efficiency: (1) the public and government databases; (2) federal agency flexibility in establishing Phase I and Phase II award sizes; and (3) commercialization assistance best practices in federal agencies with significant potential to be employed by other agencies, as well as proposals for new initiatives to address funding gaps business concerns face after Phase II but before commercialization.

Requires the committee to transmit to the Committee on Science and Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate reports on the issues identified above.

Sec. 409. National Research Council SBIR Study

Amends the *Small Business Reauthorization Act of 2000* to remove the requirement that the National Research Council provide an updated report on the SBIR program.

Sec. 410. Express Authority to "Fast-Track" Phase Two Awards for Promising Phase One Research

Authorizes agencies to develop fast-track programs to eliminate funding delays by issuing Phase Two SBIR awards as soon as practicable, including simultaneously with the issuance of the Phase One award.

Requires the Administrator to encourage the development of such "fast-track" programs.

Sec. 411. Increased SBIR and STTR Award Levels

Increases, for both the SBIR and STTR programs, the individual small business award levels from: (1) $100,000 to $250,000, for participation at a Phase One level; and (2) $750,000 to $2 million, for participation at a Phase Two level. Provides for an annual readjustment to these levels to reflect economic conditions and programmatic considerations.

Sec. 412. Express Authority for an Agency to Award Sequential Phase Two Awards for SBIR-Funded Projects

States that a small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards for such project.

States that 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.

Sec. 413. First Phase Required

States that an agency shall provide to a small business concern an award for a second phase of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award for the first phase of an SBIR program with respect to such project or has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided an award for the first phase.

COMMITTEE ON SCIENCE AND TECHNOLOGY
FULL COMMITTEE MARKUP
JUNE 24, 2009

AMENDMENT ROSTER

H.R. 2965, Enhancing Small Business Research and Innovation Act of 2009

No.	Sponsor	Description	Results
1	Mr. Smith (NE)	Adds the Office of Management and Budget as a member of the Interagency SBIR/STTR Policy Committee established in Section 408. Adds "development and incorporation of a standard evaluation framework to enable systematic assessment of SBIR and STTR, including through improved tracking of awards and outcomes and development of performance measures for individual agency programs" to the list of issues that must be reviewed by the Interagency SBIR/STTR Policy Committee. Specifies that the Interagency SBIR/STTR Policy Committee must report on its review and recommendations on the above issue not later than 1 year after the date of enactment.	Agreed to by voice vote

AMENDMENT TO H.R. 2965

OFFERED BY MR. SMITH OF NEBRASKA

Page 32, line 3, strike the period at the end and insert "and the Office of Management and Budget."

Page 32, after line 24, insert the following:

1 (4) Development and incorporation of a stand-
2 ard evaluation framework to enable systematic as-
3 sessment of SBIR and STTR, including through im-
4 proved tracking of awards and outcomes and devel-
5 opment of performance measures for individual
6 agency programs.

Page 33, line 7, strike "subsection (c)(1)" and insert "subsections (c)(1) and (c)(4)".

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