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CREATING JOBS THROUGH SMALL BUSINESS INNOVATION ACT OF 2011

MAY 26, 2011.—Ordered to be printed

Mr. HALL, from the Committee on Science, Space, and Technology, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 1425) to reauthorize and improve the SBIR and STTR programs, 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. AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Creating Jobs Through Small Business Innovation Act of 2011".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.
Sec. 102. SBIR and STTR award levels.
Sec. 103. Agency and program flexibility.
Sec. 104. Elimination of Phase II invitations.
Sec. 105. Phase flexibility.
Sec. 106. Participation by firms with substantial investment from multiple venture capital operating companies, hedge funds, or private equity firms in a portion of the SBIR program.
Sec. 107. Ensuring that innovative small businesses with substantial investment from venture capital operating companies, hedge funds, or private equity firms are able to participate in the SBIR and STTR programs.
Sec. 108. SBIR and STTR special acquisition preference.
Sec. 109. Collaborating with Federal laboratories and research and development centers.
Sec. 110. Notice requirement.
Sec. 111. Additional SBIR and STTR Awards.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

Sec. 201. Technical assistance for awardees.
Sec. 202. Commercialization Readiness Program at Department of Defense.
Sec. 203. Commercialization Readiness Pilot Program for civilian agencies.
Sec. 204. Interagency Policy Committee.
Sec. 205. Clarifying the definition of "Phase III".
Sec. 206. Shortened period for final decisions on proposals and applications.
Sec. 207. Phase 0 Proof of Concept Partnership pilot program.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.
Sec. 302. Data collection from agencies for SBIR.
Sec. 303. Data collection from agencies for STTR.
Sec. 304. Public database.
Sec. 305. Government database.
Sec. 306. Accuracy in funding base calculations.
Sec. 307. Continued evaluation by the National Academy of Sciences.
Sec. 308. Technology insertion reporting requirements.
Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs.
Sec. 311. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement.
Sec. 312. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
Sec. 313. Simplified paperwork requirements.
Sec. 314. Reducing fraud, waste, and abuse.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR program goals.
Sec. 502. Competitive selection procedures for SBIR and STTR programs.
Sec. 503. Loan restrictions.
Sec. 504. Program diversification.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms "extramural budget", "Federal agency", "Small Business Innovation Research Program", "SBIR", "Small Business Technology Transfer Program", and "STTR" have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

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

(1) by striking "TERMINATION.—" and all that follows through "the authorization" and inserting "TERMINATION.—The authorization";

(2) by striking "2008" and inserting "2014"; and

(3) by striking paragraph (2).

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

(1) by striking "IN GENERAL.—" and all that follows through "with respect" and inserting "IN GENERAL.—With respect";

(2) by striking "2009" and inserting "2014"; and

(3) by striking clause (ii).

SEC. 102. SBIR AND STTR AWARD LEVELS.

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

(1) by striking "$100,000" and inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

(b) STTR 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 inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

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

(1) in subsection (j)(2)(D), by striking "once every 5 years to reflect economic adjustments and programmatic considerations" and inserting "every year for inflation"; and

(2) in subsection (p)(2)(B)(ix), as amended by subsection (b) of this section, by inserting "(each of which the Administrator shall adjust for inflation annually)" after "$1,000,000,".

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

"(aa) LIMITATION ON SIZE OF AWARDS.—

"(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

"(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

"(A) the amount of each award;

"(B) a justification for exceeding the award amount;

"(C) the identity and location of each award recipient; and

"(D) whether an award recipient has received any venture capital, hedge fund, or private equity firm investment and, if so, whether the recipient is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.".

SEC. 103. AGENCY AND PROGRAM FLEXIBILITY.

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

"(bb) SUBSEQUENT PHASE II AWARDS.—

"(1) AGENCY FLEXIBILITY.—A small business concern that received a Phase I award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each

relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

"(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received a Phase I award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).".

SEC. 104. ELIMINATION OF PHASE II INVITATIONS.

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

(1) in paragraph (4)(B), by striking "to further" and inserting "which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further"; and

(2) in paragraph (6)(B), by striking "to further develop proposed ideas to" and inserting "which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals that".

SEC. 105. PHASE FLEXIBILITY.

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

"(cc) PHASE I REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I 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 a Phase I award.".

SEC. 106. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN A PORTION OF THE SBIR PROGRAM.

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

"(dd) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN THE SBIR PROGRAM.—

"(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives not later than 30 days before the date on which an award is made—

"(A) the Director of the National Institutes of Health, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation may award not more than 45 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns; and

"(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 35 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns.

"(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

"(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

"(B) substantially contribute to the mission of the Federal agency;

"(C) demonstrate a need for public research; and

"(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

"(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms

and qualified for participation in the program authorized under paragraph (1) shall—

"(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

"(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(4) COMPLIANCE.—

"(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

"(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).

"(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1) to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).

"(6) FINAL DECISIONS ON APPLICATIONS UNDER THE SBIR PROGRAM.—

"(A) DEFINITION.—In this paragraph, the term 'covered small business concern' means a small business concern that—

"(i) was not majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms on the date on which the small business concern submitted an application in response to a solicitation under the SBIR programs; and

"(ii) on the date of the award under the SBIR program is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(B) IN GENERAL.—If a Federal agency does not make an award under a solicitation under the SBIR program before the date that is 9 months after the date on which the period for submitting applications under the solicitation ends—

"(i) a covered small business concern is eligible to receive the award, without regard to whether the covered small business concern meets the requirements for receiving an award under the SBIR program for a small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, if the covered small business concern meets all other requirements for such an award; and

"(ii) the head of the Federal agency shall transfer an amount equal to any amount awarded to a covered small business concern under the solicitation to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency, not later than 90 days after the date on which the Federal agency makes the award.

"(7) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital or investment from hedge funds or private equity firms as a criterion for the award of contracts under the SBIR program or STTR program.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term 'venture capital operating company' means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).

"(bb) HEDGE FUND.—In this Act, the term 'hedge fund' has the meaning given that term in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

"(cc) PRIVATE EQUITY FIRM.—In this Act, the term 'private equity firm' has the meaning given the term 'private equity fund' in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).".

SEC. 107. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

"(ee) VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.—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, hedge fund, or private equity firm (or with any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if—

"(A) the venture capital operating company, hedge fund, or private equity firm does not own 50 percent or more of the business concern; and

"(B) employees of the venture capital operating company, hedge fund, or private equity firm 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, hedge funds, or private equity firms;

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

"(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

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

"(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

"(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.".

SEC. 108. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

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

"(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.".

SEC. 109. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

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

"(ff) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

"(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

"(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

"(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

"(2) PROHIBITION.—No Federal agency shall—

"(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

"(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

"(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

"(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

"(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

"(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.

"(4) ADVANCE PAYMENT.—If a small business concern receiving an award under this section enters into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award, the Federal laboratory or federally funded research and development center may not require advance payment from the small business concern in an amount greater than the amount necessary to pay for 30 days of such activities.".

SEC. 110. NOTICE REQUIREMENT.

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

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency.".

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

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting "; and";

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

"(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.".

SEC. 111. ADDITIONAL SBIR AND STTR AWARDS.

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

"(gg) ADDITIONAL SBIR AND STTR AWARDS.—

"(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive one additional Phase II SBIR award or Phase II STTR award for continued work on that project.

"(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.".

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. TECHNICAL ASSISTANCE FOR AWARDEES.

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

(1) in paragraph (1)—

(A) by inserting "or STTR program" after "SBIR program"; and

(B) by striking "SBIR projects" and inserting "SBIR or STTR projects";

(2) in paragraph (2), by striking "3 years" and inserting "5 years"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting "or STTR" after "SBIR"; and

(ii) by striking "$4,000" and inserting "$5,000";

(B) by striking subparagraph (B) and inserting the following:

"(B) PHASE II.—A Federal agency described in paragraph (1) may—

"(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

"(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award."; and

(C) by adding at the end the following:

"(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

"(D) LIMITATION.—A Federal agency may not—

"(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

"(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.".

SEC. 202. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking "PILOT" and inserting "READINESS";

(2) by striking "Pilot" each place that term appears and inserting "Readiness";

(3) in paragraph (1)—

(A) by inserting "or Small Business Technology Transfer Program" after "Small Business Innovation Research Program"; and

(B) by adding at the end the following: "The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).";

(4) in paragraph (2), by inserting "or Small Business Technology Transfer Program" after "Small Business Innovation Research Program";

(5) by striking paragraphs (5) and (6); and

(6) by inserting after paragraph (4) the following:

"(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

"(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

"(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

"(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

"(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

"(B) use incentives in effect on the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

"(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information

on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting "(including awards under subsection (y))" after "the number of awards".

SEC. 203. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

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

"(hh) PILOT PROGRAM.—

"(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

"(A) for awards for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR Phase II technologies; or

"(B) to support the progress of research, research and development, and commercialization conducted under the SBIR or STTR programs to Phase III.

"(2) APPLICATION BY FEDERAL AGENCY.—

"(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

"(B) DETERMINATION.—The Administrator shall—

"(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

"(ii) publish the determination in the Federal Register; and

"(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

"(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

"(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

"(5) AWARD CRITERIA OR CONSIDERATION.—When making an award under this section, the head of a covered Federal agency shall give consideration to whether the technology to be supported by the award is likely to be manufactured in the United States.

"(6) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

"(7) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

"(8) DEFINITIONS.—In this subsection—

"(A) the term 'covered Federal agency'—

"(i) means a Federal agency participating in the SBIR program or the STTR program; and

"(ii) does not include the Department of Defense; and

"(B) the term 'pilot program' means the program established under paragraph (1).".

SEC. 204. INTERAGENCY POLICY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee.

(b) 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) of the Small Business Act (15 U.S.C. 638(k)).

(2) Federal agency flexibility in establishing Phase I and II award sizes, including appropriate criteria for exercising such flexibility.

(3) Commercialization assistance best practices of 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 that business concerns face after Phase II but before commercialization.

(4) Developing and incorporating 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 the SBIR program and STTR program of each Federal agency.

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

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

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

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

(4) a report on its review and recommendations under subsection (b)(4) not later than 2 years after the date of enactment of this Act.

SEC. 205. CLARIFYING THE DEFINITION OF "PHASE III".

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)), as amended by this Act, is further amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program" after "phase";

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program" after "phase";

(3) in paragraph (8), by striking "and" at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(10) the term 'commercialization' means—

"(A) the process of developing products, processes, technologies, or services; and

"(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (e)—

(A) in paragraph (4)(C)(ii), by striking "scientific review criteria" and inserting "merit-based selection procedures";

(B) in paragraph (9), by striking "the second or the third phase" and inserting "Phase II or Phase III"; and

(C) by adding at the end the following:

"(11) the term 'Phase I' means—

"(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

"(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

"(12) the term 'Phase II' means—

"(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

"(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

"(13) the term 'Phase III' means—

"(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

"(B) with respect to the STTR program, the third phase described in paragraph (6)(C).";

(2) in subsection (j)—

(A) in paragraph (1)(B), by striking "phase two" and inserting "Phase II";
(B) in paragraph (2)—
(i) in subparagraph (B)—
(I) by striking "the third phase" each place it appears and inserting "Phase III"; and
(II) by striking "the second phase" and inserting "Phase II";
(ii) in subparagraph (D)—
(I) by striking "the first phase" and inserting "Phase I"; and
(II) by striking "the second phase" and inserting "Phase II";
(iii) in subparagraph (F), by striking "the third phase" and inserting "Phase III";
(iv) in subparagraph (G)—
(I) by striking "the first phase" and inserting "Phase I"; and
(II) by striking "the second phase" and inserting "Phase II"; and
(v) in subparagraph (H)—
(I) by striking "the first phase" and inserting "Phase I";
(II) by striking "second phase" each place it appears and inserting "Phase II"; and
(III) by striking "third phase" and inserting "Phase III"; and
(C) in paragraph (3)—
(i) in subparagraph (A)—
(I) by striking "the first phase (as described in subsection (e)(4)(A))" and inserting "Phase I";
(II) by striking "the second phase (as described in subsection (e)(4)(B))" and inserting "Phase II"; and
(III) by striking "the third phase (as described in subsection (e)(4)(C))" and inserting "Phase III"; and
(ii) in subparagraph (B), by striking "second phase" and inserting "Phase II";
(3) in subsection (k)—
(A) by striking "first phase" each place it appears and inserting "Phase I"; and
(B) by striking "second phase" each place it appears and inserting "Phase II";
(4) in subsection (l)(2)—
(A) by striking "the first phase" and inserting "Phase I"; and
(B) by striking "the second phase" and inserting "Phase II";
(5) in subsection (o)(13)—
(A) in subparagraph (B), by striking "second phase" and inserting "Phase II"; and
(B) in subparagraph (C), by striking "third phase" and inserting "Phase III";
(6) in subsection (p)—
(A) in paragraph (2)(B)—
(i) in clause (vi)—
(I) by striking "the second phase" and inserting "Phase II"; and
(II) by striking "the third phase" and inserting "Phase III"; and
(ii) in clause (ix)—
(I) by striking "the first phase" and inserting "Phase I"; and
(II) by striking "the second phase" and inserting "Phase II"; and
(B) in paragraph (3)—
(i) by striking "the first phase (as described in subsection (e)(6)(A))" and inserting "Phase I";
(ii) by striking "the second phase (as described in subsection (e)(6)(B))" and inserting "Phase II"; and
(iii) by striking "the third phase (as described in subsection (e)(6)(C))" and inserting "Phase III";
(7) in subsection (q)(3)(A)—
(A) in the subparagraph heading, by striking "FIRST PHASE" and inserting "PHASE I"; and
(B) by striking "first phase" and inserting "Phase I";
(8) in subsection (r)—
(A) in the subsection heading, by striking "THIRD PHASE" and inserting "PHASE III";
(B) in paragraph (1)—
(i) in the first sentence—
(I) by striking "for the second phase" and inserting "for Phase II";
(II) by striking "third phase" and inserting "Phase III"; and

(III) by striking "second phase period" and inserting "Phase II period"; and

(ii) in the second sentence—

(I) by striking "second phase" and inserting "Phase II"; and

(II) by striking "third phase" and inserting "Phase III"; and

(C) in paragraph (2), by striking "third phase" and inserting "Phase III"; and

(9) in subsection (u)(2)(B), by striking "the first phase" and inserting "Phase I".

SEC. 206. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (g)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the SBIR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;"; and

(2) in subsection (o)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the STTR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;".

(b) NIH PEER REVIEW PROCESS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended by adding at the end the following:

"(ii) NIH PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health only if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).

"(jj) NSF PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Science Foundation may make an award under the SBIR program or the STTR program of the National Science Foundation only if the application for the award has undergone the National Science Foundation's technical and scientific peer review process and met all other applicable peer review procedures and guidelines pursuant to the National Science Foundation Act of 1950 (42 U.S.C. 1861, et seq.) and other applicable Federal law.".

SEC. 207. PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.

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

"(kk) PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.—

"(1) IN GENERAL.—The Director of the National Institutes of Health shall use $10,000,000 of the funds allocated under subsection (n)(1) for a Proof of Concept Partnership pilot program to accelerate the creation of small businesses and the commercialization of research innovations from qualifying institutions. To implement this program, the Director shall award, through a competitive, merit-based process, grants to qualifying institutions. These grants shall only be used to administer Proof of Concept Partnership awards in conformity with this subsection.

"(2) DEFINITIONS.—In this subsection—

"(A) the term 'Director' means the Director of the National Institutes of Health;

"(B) the term 'pilot program' refers to the Proof of Concept Partnership pilot program; and

"(C) the terms 'qualifying institution' and 'institution' mean a university or other research institution that participates in the National Institutes of Health's STTR program.

"(3) PROOF OF CONCEPT PARTNERSHIPS.—

"(A) IN GENERAL.—A Proof of Concept Partnership shall be set up by a qualifying institution to award grants to individual researchers. These grants should provide researchers with the initial investment and the resources to support the proof of concept work and commercialization mentoring needed to translate promising research projects and technologies into a viable company. This work may include technical validations, market research, clarifying intellectual property rights position and strategy and investigating commercial or business opportunities.

"(B) AWARD GUIDELINES.—The administrator of a Proof of Concept Partnership program shall award grants in accordance with the following guidelines:

"(i) The Proof of Concept Partnership shall use a market-focused project management oversight process, including—

"(I) a rigorous, diverse review board comprised of local experts in translational and proof of concept research, including industry, start-up, venture capital, technical, financial, and business experts and university technology transfer officials;

"(II) technology validation milestones focused on market feasibility;

"(III) simple reporting effective at redirecting projects; and

"(IV) the willingness to reallocate funding from failing projects to those with more potential.

"(ii) Not more than $100,000 shall be awarded towards an individual proposal.

"(C) EDUCATIONAL RESOURCES AND GUIDANCE.—The administrator of a Proof of Concept Partnership program shall make educational resources and guidance available to researchers attempting to commercialize their innovations.

"(4) AWARDS.—

"(A) SIZE OF AWARD.—The Director may make awards to a qualifying institution for up to $1,000,000 per year for up to 3 years.

"(B) AWARD CRITERIA.—In determining which qualifying institutions receive pilot program grants, the Director shall consider, in addition to any other criteria the Director determines necessary, the extent to which qualifying institutions—

"(i) have an established and proven technology transfer or commercialization office and have a plan for engaging that office in the program implementation;

"(ii) have demonstrated a commitment to local and regional economic development;

"(iii) are located in diverse geographies and are of diverse sizes;

"(iv) can assemble project management boards comprised of industry, start-up, venture capital, technical, financial, and business experts;

"(v) have an intellectual property rights strategy or office; and

"(vi) demonstrate a plan for sustainability beyond the duration of the funding award.

"(5) LIMITATIONS.—The funds for the pilot program shall not be used—

"(A) for basic research, but to evaluate the commercial potential of existing discoveries, including—

"(i) proof of concept research or prototype development; and

"(ii) activities that contribute to determining a project's commercialization path, to include technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities; or

"(B) to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

"(6) EVALUATIVE REPORT.—The Director shall submit to the Committee on Science, Space, and Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an evaluative report regarding the activities of the pilot program. The report shall include—

"(A) a detailed description of the institutional and proposal selection process;

"(B) an accounting of the funds used in the pilot program;

"(C) a detailed description of the pilot program, including incentives and activities undertaken by review board experts;

"(D) a detailed compilation of results achieved by the pilot program, including the number of small business concerns included and the number of

business packages developed, and the number of projects that progressed into subsequent STTR phases; and

"(E) an analysis of the program's effectiveness with supporting data.

"(7) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2014.".

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

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

(1) in paragraph (7)—

(A) by striking "STTR programs, including the data" and inserting the following: "STTR programs, including—

"(A) the data";

(B) by striking "(g)(10), (o)(9), and (o)(15), the number" and all that follows through "under each of the SBIR and STTR programs, and a description" and inserting the following: "(g)(8) and (o)(9);

"(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital, hedge fund, or private equity firm investment (including those majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms) under each of the SBIR and STTR programs;

"(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

"(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (dd) for firms owned in majority part by venture capital operating companies, hedge funds, or private equity firms and participating in the SBIR program;

"(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

"(F) a description"; and

(C) by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data.".

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

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

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(3) by inserting after paragraph (7) the following:

"(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an awardee—

"(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment that the awardee has received as of the date of the award; and

"(II) the amount of additional capital that the awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vi) is located in a State described in subsection (u)(3); and

"(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;".

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by this Act, is further amended by striking paragraph (9) and inserting the following:

"(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an applicant or awardee—

"(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment that the applicant or awardee has received as of the date of the application or award, as applicable; and

"(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vi) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

"(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;".

SEC. 304. PUBLIC DATABASE.

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

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

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

"(i) has venture capital, hedge fund, or private equity firm investment and, if so, whether the small business concern is registered as

majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms as required under subsection (dd)(3);

"(ii) is owned by a woman or has a woman as a principal investigator;

"(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; or

"(iv) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

SEC. 305. GOVERNMENT DATABASE.

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

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "Not later" and all that follows through "Act of 2000" and inserting "Not later than 90 days after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011";

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

"(A) contains, for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

"(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

"(ii) an abstract of the project;

"(iii) the specific aims of the project;

"(iv) the number of employees of the small business concern;

"(v) the names and titles of the key individuals that will carry out the project, the position each key individual holds in the small business concern, and contact information for each key individual;

"(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

"(vii) whether the small business concern is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

"(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;";

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

"(D) includes, for each awardee—

"(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

"(ii) whether the awardee has venture capital, hedge fund, or private equity firm investment, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment as of the date of the award;

"(II) the percentage of ownership of the awardee held by a venture capital operating company, hedge fund, or private equity firm, including whether the awardee is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

"(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

"(iii) the names and locations of any affiliates of the awardee;

"(iv) the number of employees of the awardee;

"(v) the number of employees of the affiliates of the awardee; and

"(vi) the names of, and the percentage of ownership of the awardee held by—

"(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

"(II) any person that is not an individual and is not organized under the laws of a State or the United States;";

(G) in subparagraph (E), as so redesignated, by striking "and" at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting "; and"; and

(I) by adding at the end the following:

"(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has been—

"(i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or

"(ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program."; and

(2) in paragraph (3), by adding at the end the following:

"(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.".

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 5 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration; and

(C) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraph (B), and the determination made under subparagraph (C) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term "applicable period" means—

(1) for the first report submitted under this section, the period beginning on October 1, 2005, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

"(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter—

"(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1);

"(B) conduct a comprehensive study of how the STTR program has stimulated technological innovation and technology transfer, including—

"(i) a review of the collaborations created between small businesses and research institutions, including an evaluation of the effectiveness of the program in stimulating new collaborations and any obstacles that may prevent or inhibit the creation of such collaborations;

"(ii) an evaluation of the effectiveness of the program at transferring technology and capabilities developed through Federal funding;

"(iii) an evaluation of the program's success at commercializing technologies compared with other Federal technology transfer programs and the SBIR program;

"(iv) to the extent practicable, an evaluation of the economic benefits achieved by the STTR program, including the economic rate of return;

"(v) an analysis of how Federal agencies are using small businesses that have completed Phase II under the STTR program to fulfill their procurement needs; and

"(vi) an analysis of whether the existing STTR allocation has impacted the effectiveness of the program in achieving its goals;

"(C) make recommendations with respect to the issues described in subparagraph (A), (D), and (E) of subsection (a)(2) and subparagraph (B) of this paragraph; and

"(D) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

"(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure that there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

"(3) REPORTING.—An agreement under paragraph (1) shall require that—

"(A) not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1); and

"(B) not later than 2 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report of preliminary findings and recommendations regarding the study conducted under paragraph (1)(B).".

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

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

"(ll) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

"(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

"(2) the name of the small business concern or individual receiving the Phase III award; and

"(3) the dollar amount of the Phase III award.".

SEC. 309. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

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

"(mm) 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 or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

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

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

"(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).".

SEC. 310. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

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

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

"(1) IN GENERAL.—Subject to paragraph (2), for the 3 full fiscal years beginning after the date of enactment of this subsection, the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

"(A) the administration of the SBIR program or the STTR program of the Federal agency;

"(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits and personnel interviews;

"(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

"(D) carrying out the program under subsection (y);

"(E) activities relating to oversight and congressional reporting, including waste, fraud, and abuse prevention activities;

"(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program or STTR program, respectively;

"(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

"(H) carrying out subsection (dd);

"(I) carrying out subsection (hh);

"(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

"(K) funding for additional personnel and assistance with application reviews.

"(2) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

"(3) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.

"(4) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than $50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(A) in subsection (f)(2), by striking "shall not" and all that follows through "make available for the purpose" and inserting "shall not make available for the purpose"; and

(B) in subsection (y)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsection (f)(2) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (nn)(2) of section 9 of the Small Business Act, as added by subsection (a).

(3) PROSPECTIVE REPEAL.—Effective on the first day of the fourth full fiscal year following the date of enactment of this Act, section 9 of the Small Business Act (15 U.S.C. 638), as amended by paragraph (1) of this section, is amended—

(A) in subsection (f)(2), by striking "shall not make available for the purpose" and inserting the following: "shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose"; and

(B) in subsection (y)—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(ii) by inserting after paragraph (3) the following:

"(4) FUNDING.—

"(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Pilot Program under this subsection.

"(B) LIMITATIONS.—The funds described in subparagraph (A)—

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

"(ii) shall not be used to make Phase III awards.".

SEC. 311. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY, HEDGE FUND, AND PRIVATE EQUITY FIRM INVOLVEMENT.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company, hedge fund, and private equity firm involvement under section 9 of the Small Business Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

SEC. 312. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

(1) AMENDMENTS REQUIRED FOR FRAUD, WASTE, AND ABUSE PREVENTION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(2) CONTENT OF AMENDMENTS.—The amendments required under paragraph (1) shall include—

(A) definitions or descriptions of fraud, waste, and abuse;

(B) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program;

(C) a requirement that each Federal agency that participates in the SBIR program or STTR program include information concerning the method established by the Inspector General of the Federal agency to report fraud, waste, and abuse (including any telephone hotline or Web-based platform)—

(i) on the website of the Federal agency; and

(ii) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program; and

(D) a requirement that each applicant for and small business concern that receives funding under the SBIR program or the STTR program shall certify whether the applicant or small business concern is in compliance with the laws relating to the SBIR program and the STTR program and the conduct guidelines established under the SBIR Policy Directive and the STTR Policy Directive.

(3) CONSULTATION.—The Administrator shall develop the certification required under paragraph (2)(D) in cooperation with the Council of Inspectors General on Integrity and Efficiency and the Office of Advocacy of the Administration.

(4) INSPECTORS GENERAL.—The Inspector General of each Federal agency that participates in the SBIR program or STTR program shall cooperate to prevent fraud, waste, and abuse in the SBIR program and the STTR program by—

(A) establishing fraud detection indicators;

(B) reviewing regulations and operating procedures of the Federal agency;

(C) coordinating information sharing between Federal agencies, to the extent otherwise permitted under Federal law; and

(D) improving the education and training of, and outreach to—

(i) administrators of the SBIR program and the STTR program of the Federal agency;

(ii) applicants to the SBIR program or the STTR program; and

(iii) recipients of awards under the SBIR program or the STTR program.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 3 years thereafter to evaluate the effectiveness of the agency strategies, the Comptroller General of the United States shall—

(1) conduct a study that evaluates—

(A) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(B) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(C) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;

(D) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;

(E) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency; and

(F) the extent to which the Inspector General of each Federal agency that participates in the SBIR and STTR program effectively conducts investigations, audits, inspections, and outreach relating to the SBIR and STTR programs of the Federal agency; and

(2) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under subparagraph (A).

SEC. 313. SIMPLIFIED PAPERWORK REQUIREMENTS.

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

(1) in the subsection heading, by striking "SIMPLIFIED REPORTING REQUIREMENTS" and inserting "REDUCING PAPERWORK AND COMPLIANCE BURDEN";

(2) by striking "The Administrator" and inserting the following:

"(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator"; and

(3) by adding at the end the following:

"(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than one year after the date of enactment of this paragraph, and after a period of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.".

SEC. 314. REDUCING FRAUD, WASTE, AND ABUSE.

Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

(2) make recommendations with respect to the issues described in paragraph (1); and

(3) submit to the head of each agency described in section 108(a) of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note), the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on

Small Business and the Committee on Science, Space, and Technology of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (2).

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

TITLE V—OTHER PROVISIONS

SEC. 501. REPORT ON SBIR AND STTR PROGRAM GOALS.

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

"(oo) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

"(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

"(A) are science-based and statistically driven;

"(B) reflect the mission of the Federal agency; and

"(C) include factors relating to the economic impact of the programs.

"(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

"(A) the SBIR program and the STTR program of the Federal agency; and

"(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

"(3) REPORT.—

"(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

"(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

"(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

"(i) the Committee on Small Business and Entrepreneurship of the Senate; and

"(ii) the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.".

SEC. 502. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

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

"(pp) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.".

SEC. 503. LOAN RESTRICTIONS.

(a) RULE REQUIRED.—For purposes of section 9 of the Small Business Act (15 U.S.C. 638), the Administrator shall promulgate a rule not later than 180 days after the date of enactment of this Act that determines what restrictions, conditions, or covenants contained in a note, bond, debenture, other evidence of indebtedness, or preferred stock constitute affiliation for purposes of section 121.103(a) of title 13, Code of Federal Regulations, as in effect on January 1, 2011.

(b) FAILURE TO PROMULGATE.—If the Administrator fails to promulgate a rule in the time period required under subsection (a), the holder of a note, bond, debenture,

other evidence of indebtedness, or preferred stock shall be considered to be affiliated with the debtor or issuer of the preferred stock until such time as the Administrator promulgates the rule required under subsection (a).

SEC. 504. PROGRAM DIVERSIFICATION.

Federal agencies shall encourage applications under the SBIR and STTR programs (to the extent that the projects relate to the mission of the Federal agency) from—

(1) small business concerns in geographic areas underrepresented in the SBIR and STTR programs or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

(2) small business concerns owned and controlled by women;

(3) small business concerns owned and controlled by veterans;

(4) small business concerns owned and controlled by minorities;

(5) small business concerns owned and controlled by people with disabilities; and

(6) small business concerns located in a geographic area with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.

II. Purpose and Summary

The purpose of H.R. 1425 is to reauthorize the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs through Fiscal Year 2014, to increase SBIR and STTR award sizes to reflect changes in inflation, to allow small businesses with majority venture capital backing to compete for a limited percentage of awards, and to collect better data on the SBIR and STTR programs to evaluate the effectiveness of the programs and to prevent fraud, waste, and abuse.

III. Background and Need for the Legislation

The Small Business Innovation Research (SBIR) program was originally established when the Congress passed the Small Business Innovation Development Act in 1982 (P.L. 97–219).

The original objectives of the SBIR program included:

- Stimulation of technological innovation in the small business sector;
- Increased use of the small business sector to meet the government's research and development (R&D) needs;
- Additional involvement of minority and disadvantaged individuals in the process; and
- Expanded commercialization of the results of federally funded R&D.

The 1992 SBIR reauthorization (P.L. 102–564) placed greater emphasis on the objective of commercialization of SBIR projects.

Current law requires that every federal department with an extramural R&D budget of $100 million or more establish and operate an SBIR program. Eleven federal departments have SBIR programs, including the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, and Transportation; the Environmental Protection Agency, the National Aeronautics and Space Administration (NASA); and the National Science Foundation (NSF). Under the program, each qualifying federal department is mandated to set aside 2.5 percent of its applicable extramural R&D for the SBIR program. Cumulatively, the SBIR program makes almost $2 billion in awards to small businesses annually.

The Small Business Technology Transfer (STTR) program was created in 1992 to provide federal R&D funding for research proposals that are developed and executed cooperatively between a small firm and a scientist in a nonprofit research organization, and fall under the mission requirements of the federal funding agency. Federal departments with annual extramural research budgets over $1 billion must set aside 0.3 percent for STTR programs. Currently, the Departments of Energy, Defense, and Health and Human Services, as well as NASA and NSF participate in the STTR program. Across the participating agencies, approximately $800 million in STTR awards are made annually.

The SBIR and STTR programs have been operating under temporary extensions since their authorizations expired in 2008 and 2009, respectively. This bill will increase the size guidelines for award amounts for Phase I and Phase II SBIR and STTR awards, will enable majority venture capital backed firms to compete for a limited percentage of SBIR awards, and will improve evaluation of the programs through greater data collection, sharing of best practices, and increased efforts to prevent fraud, waste, and abuse. H.R. 1425 will reauthorize the SBIR and the STTR programs through Fiscal Year 2014.

IV. Hearing Summary

The Technology and Innovation Subcommittee of the Committee on Science, Space, and Technology held a hearing on March 31, 2011 entitled "The Role of Small Business in Innovation and Job Creation: The SBIR and STTR Programs." The purpose of the hearing was to examine the role of the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) Programs in promoting innovation.

The Subcommittee received testimony from: Dr. Sally Rockey, Deputy Director for Extramural Research at the National Institutes of Health; Dr. Donald Siegel, Dean and Professor at the School of Business, University at Albany, State University of New York, and a Member of the research team for the Committee for Capitalizing on Science, Technology, and Innovation, National Research Council of the National Academies; Mr. Mark Crowell, Executive Director and Associate Vice President for Innovation Partnerships and Commercialization at the University of Virginia; Mr. Doug Limbaugh, Chief Executive Officer of Kutta Technologies; and Ms. Laura McKinney, President and Chief Executive Officer of Galois, Inc.

V. Committee Consideration

On April 7, 2011, H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011 was introduced by Rep. Renee Ellmers (R-NC 2), and co-sponsored by Rep. Jason Altmire (D-PA 4), Rep. Judy Biggert (R-IL 13), Rep. Howard Coble, (R-NC 6), Rep. Sam Graves (R-MO 6), Rep. Ralph Hall (R-TX 4), Rep. Eddie Bernice Johnson (D-TX 30), Rep. Daniel Lipinski (D-IL 3), Rep. Benjamin Quayle (R-AZ 3), Rep. Cedric L. Richmond (D-LA 2), and Rep. David Wu (D-OR 1). H.R. 1425 was referred to the Committee on Small Business and the Committee on Science, Space, and Technology and the Committee on Armed Services.

On April 13, 2011 the Subcommittee on Technology and Innovation met to consider H.R. 1425 and ordered it favorably reported to the Full Committee, as amended, by voice vote.

On May 4, 2011 the Committee on Science, Space, and Technology met in open markup session and ordered H.R. 1425, favorably reported to the House, as amended, by voice vote.

VI. Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion to order H.R. 1425, favorably reported to the House, as amended, was agreed to by a voice vote.

During Subcommittee on Technology and Innovation consideration of H.R. 1425 the following amendments were considered:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
Subcommittee on Technology and Innovation Markup
April 13, 2011

AMENDMENT ROSTER

H. R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

No.	Amendment	Summary	Results
1	Mr. Wu (006)	Extends the authorization period by 2 years for SBIR and STTR; changes it from FY 2012-2014 to FY2012-2016.	Not Agreed to by voice vote
2	Mr. Lipinski (015)	Directs the agencies making awards in the SBIR and STTR commercialization pilot program to consider whether the technology to be supported is likely to be manufactured in the United States.	Agreed to by voice vote
3	Mr. Quayle (007)	Ensures that SBIR and STTR applications go through peer review processes at the National Institutes of Health and the National Science Foundation before awards are made.	Agreed to by voice vote
4	Ms. Wilson (006)	Authorizes $10 million for FY 2012-2014 for the Small Business Administration to award grants on a competitive basis to organizations to conduct outreach efforts and to provide application preparation support to business categories underrepresented in SBIR and STTR.	Defeated by roll call vote 4 Yeas and 9 Nays.
5	Mr. Lipinski (016)	Requires the evaluation by the National Academies to include an estimate of the number of jobs created "in the United States" rather than just the number of jobs created.	Agreed to by voice vote
6	Mr. Lujan (015)	Requires a study and report by the National Academy of Sciences on how the STTR program has stimulated technological innovation and used small business to meet Federal technology transfer needs.	Withdrawn
7	Mr. Lujan (014)	Requires Federal agencies to encourage applications under SBIR and STTR by small business concerns: 1) located in underrepresented geographic areas; 2)owned by women; owned by veterans; owned by minorities; and 3) located in areas with high unemployment.	Agreed to by voice vote

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th
Subcommittee on Technology and Innovation

DATE: 4/13/11 AMENDMENT NO. 4 ROLL CALL NO.__1___

Bill: H.R.1425
The Creating Jobs Through Small Business Innovation Act of 2011.

SPONSOR of AMEND: Ms. Wilson

DEFEATED by a vote of 4-9

Quorum –6 to vote –9 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. QUAYLE, *Chair* - *AZ*		x		
2 Mr. SMITH - *TX*		x		
3 Mrs. BIGGERT - *IL*		x		
4 Mr. NEUGEBAUER - *TX*		x		
5 Mr. McCAUL - *TX*		x		
6 Mr. FLEISCHMANN - *TN*				
7 Mr. RIGELL - *VA*		x		
8 Mr. HULTGREN - *IL*		x		
9 Mr. CRAVAACK - *MN*		x		
10 Mr. HALL, *ex officio* - *TX*		x		
1 Mr. WU, *Ranking* - *OR*	x			
2 Mr. SARBANES - *MD*				
3 Ms. WILSON - *FL*	x			
4 Mr. LIPINSKI - *IL*	x			
5 Ms. GIFFORDS - *AZ*				
6 Mr. LUJÁN - *NM*	x			
7 Ms. JOHNSON, *ex officio* - *TX*				
TOTALS	4	9		

During Full Committee consideration of H.R. 1425 the following amendments were considered:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
May 4, 2011

AMENDMENT ROSTER

H. R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

No.	Amendment	Summary	Results
1	Mr. Wu (010)	Extends the authorization period by 2 years for SBIR and STTR; changes it from FY 2012-2014 to FY2012-2016	Not agreed to by roll call vote 8 Yeas and 15Nays
2	Mr. Wu (011)	Would further increase the award size available for applicants for Phase II grants for both SBIR and STTR from $1 million to $1.5 million. (Current law is $750,000.)	Withdrawn
3	Mr. Tonko (026)	Would strike the language in the bill that allows a business to receive a Phase II award without first receiving a Phase I award provided the company can demonstrate they have completed equivalent work to Phase I	Not agreed to by roll call vote 9 Yeas and 19 Nays
4	Mr. Wu (009)	Adds NASA to the list of agencies that may award not more than 45% of the funds allocated for SBIR to small business concerns that are owned in majority part by multiple venture capital operating companies	Agreed to by voice vote
5	Mr. Tonko (027)	Decreases the percentage of awards that may be allocated to small business concerns that are owned in majority part by multiple venture capital operating companies from 45% to 25% for NIH, DOE, and NSF and from 35% to 15% for all other agencies	Not agreed to by roll call vote 7 Yeas and 21Nays
6	Mr. Tonko (030)	Prevents small businesses with majority backing from multiple venture capital operating companies, hedge funds, and/or private equity firms from competing for SBIR and STTR awards. Prevents a small business from competing for SBIR and STTR awards if the majority of that business's board of directors is comprised of employees of venture capital operating companies, hedge funds, and/or private equity firms	Not agreed to by voice vote
7	Mr. Tonko (028)	Adds language to the SBIR and STTR programs prohibiting large businesses or entities and foreign owned businesses or entities from participating	Not agreed to by roll call vote 10 Yeas and 19 Nays
8	Mr. Smith (018)	Alters existing law to reduce the amount of advance payments required from a small business concern entering into an agreement under section 109 from the amount necessary to cover 90 days of activities to the amount necessary to cover 30 days of activities	Agreed to by voice vote

9	Mr. Lujan (016)	Increases the percentage of an agency's extramural research budget that the agency is required to allocate to STTR from .3% to .4% for FY2012 to .5% for FY 2013 and to .6% for FY 2014	Not agreed to by voice vote
10	Mr. Tonko (029)	Clarifies that federal agencies may not enter into a contract with state-based organizations that use number of awards received as a criteria for the amount of money provided for technical assistance to small businesses	Withdrawn
11	Ms. Johnson (031)	Amends the Interagency Policy Committee to require that it also focus on ways to improve outreach and technical assistance; Requires agencies that decide to utilize a portion of the funds allocated for SBIR/STTR for administrative costs under Section 310 to use at least .5% of those funds for outreach efforts and technical assistance to specific business groups	Request to modify granted by Unanimous Consent; Not agreed to by a roll call vote 15 Yeas and17 Nays
12	Mr. Lipinski (018)	Out of the funds set-aside for STTR at NIH, requires $10 million dollars to be used to establish a pilot program to provide grants to provide researchers from universities and research institutions with initial investment and resources to support the creation of small businesses and the commercialization of research innovations	Agreed to by roll call vote 16 Yeas and 14 Nays
13	Mr. Tonko (035)	Authorizes $538 million for a program at NIH to award grants to assist in the commercialization of research funded by a previous Phase II award	Not agreed to by roll call vote 13 Yeas and 15 Nays
14	Mr. Broun (022)	Adds a number of provisions throughout the bill to monitor and prevent waste, fraud, and abuse throughout the SBIR and STTR programs including requiring the Inspector General of each agency involved in SBIR/STTR to establish practices to prevent and detect fraud and abuse	Agreed to by voice vote
14a	Edwards (010)	2nd Degree Amendment offered by Ms. Edwards	Withdrawn
15	Mr. Lujan (018)	Requires the study and report by the National Academy of Sciences in Section 108 be expanded to include a study of how the STTR program has stimulated technological innovation and used small business to meet Federal technology transfer needs.	Agreed to by voice vote
16	Mr. Rohrabacher (014)	Amends Section 504 of the bill to require Federal agencies who participate in the programs to encourage applications from small business concerns owned and controlled by persons with disabilities	Agreed to by voice vote

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 010 ROLL CALL NO. 1

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon. Wu

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI				
3 Mr. SMITH - TX		X		
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD		X		
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX				
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA				
12 Mrs. ADAMS - FL		X		
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA		X		
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL				
20 Mr. CRAVAACK - MN		X		
21 Mr. BUCSHON - IN				
22 Mr. BENISHEK - MI		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX	X			
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA				
4 Ms. LOFGREN - CA				
5 Mr. WU - OR	X			
6 Mr. MILLER - NC				
7 Mr. LIPINSKI - IL				
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH				
11 Mr. LUJÁN - NM	X			
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA	X			
14 Mr. SARBANES - MD				
15 Ms. SEWELL - AL				
16 Ms. WILSON - FL	X			
17 Mr. CLARKE - MI				
TOTALS	8	15		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 026 ROLL CALL NO.__2__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI				
3 Mr. SMITH - TX		X		
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD		X		
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX				
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA				
12 Mrs. ADAMS - FL		X		
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA	X			
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL				
20 Mr. CRAVAACK - MN		X		
21 Mr. BUCSHON - IN		X		
22 Mr. BENISHEK - MI		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX	X			
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA				
4 Ms. LOFGREN - CA				
5 Mr. WU - OR		X		
6 Mr. MILLER - NC				
7 Mr. LIPINSKI - IL		X		
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH				
11 Mr. LUJÁN - NM	X			
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA		X		
14 Mr. SARBANES - MD		X		
15 Ms. SEWELL - AL	X			
16 Ms. WILSON - FL	X			
17 Mr. CLARKE - MI	X			
TOTALS	9	19		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 027 ROLL CALL NO.__3__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI				
3 Mr. SMITH - TX		X		
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD		X		
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX				
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA		X		
12 Mrs. ADAMS - FL		X		
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA		X		
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL				
20 Mr. CRAVAACK - MN		X		
21 Mr. BUCSHON - IN		X		
22 Mr. BENISHEK - MI	X			
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX		X		
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA				
4 Ms. LOFGREN - CA				
5 Mr. WU - OR	X			
6 Mr. MILLER - NC				
7 Mr. LIPINSKI - IL	X			
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH				
11 Mr. LUJÁN - NM		X		
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA		X		
14 Mr. SARBANES - MD	X			
15 Ms. SEWELL - AL				
16 Ms. WILSON - FL		X		
17 Mr. CLARKE - MI		X		
TOTALS	7	21		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 028 ROLL CALL NO. 4

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI		X		
3 Mr. SMITH - TX		X		
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD		X		
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX				
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA		X		
12 Mrs. ADAMS - FL		X		
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA		X		
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL				
20 Mr. CRAVAACK - MN		X		
21 Mr. BUCSHON - IN		X		
22 Mr. BENISHEK - MI		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX	X			
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA				
4 Ms. LOFGREN - CA				
5 Mr. WU - OR	X			
6 Mr. MILLER - NC				
7 Mr. LIPINSKI - IL	X			
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH				
11 Mr. LUJÁN - NM	X			
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA		X		
14 Mr. SARBANES - MD	X			
15 Ms. SEWELL - AL				
16 Ms. WILSON - FL	X			
17 Mr. CLARKE - MI	X			
TOTALS	10	19		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 031 ROLL CALL NO.___5__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon. Johnson

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI				
3 Mr. SMITH - TX				
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD		X		
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX		X		
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA		X		
12 Mrs. ADAMS - FL		X		
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA		X		
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL		X		
20 Mr. CRAVAACK - MN	X			
21 Mr. BUCSHON - IN		X		
22 Mr. BENISHEK - MI		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX	X			
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA	X			
4 Ms. LOFGREN - CA				
5 Mr. WU - OR	X			
6 Mr. MILLER - NC				
7 Mr. LIPINSKI - IL	X			
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH	X			
11 Mr. LUJÁN - NM	X			
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA	X			
14 Mr. SARBANES - MD	X			
15 Ms. SEWELL - AL	X			
16 Ms. WILSON - FL	X			
17 Mr. CLARKE - MI	X			
TOTALS	15	17		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 018 ROLL CALL NO.___6__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Lipinski

PASSED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - TX		X		
2 Mr. SENSENBRENNER - WI				
3 Mr. SMITH - TX				
4 Mr. ROHRABACHER - CA		X		
5 Mr. BARTLETT - MD				
6 Mr. LUCAS - OK				
7 Mrs. BIGGERT - IL		X		
8 Mr. AKIN - MO				
9 Mr. NEUGEBAUER - TX		X		
10 Mr. McCAUL - TX		X		
11 Mr. BROUN - GA		X		
12 Mrs. ADAMS - FL	X			
13 Mr. QUAYLE - AZ		X		
14 Mr. FLEISCHMANN - TN		X		
15 Mr. RIGELL - VA		X		
16 Mr. PALAZZO - MS		X		
17 Mr. BROOKS - AL		X		
18 Mr. HARRIS - MD		X		
19 Mr. HULTGREN - IL		X		
20 Mr. CRAVAACK - MN		X		
21 Mr. BUCSHON - IN				
22 Mr. BENISHEK - MI	X			
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - TX	X			
2 Mr. COSTELLO - IL	X			
3 Ms. WOOLSEY - CA	X			
4 Ms. LOFGREN - CA				
5 Mr. WU - OR	X			
6 Mr. MILLER - NC	X			
7 Mr. LIPINSKI - IL	X			
8 Ms. GIFFORDS - AR				
9 Ms. EDWARDS - MD	X			
10 Ms. FUDGE - OH	X			
11 Mr. LUJÁN - NM	X			
12 Mr. TONKO - NY	X			
13 Mr. McNERNEY - CA	X			
14 Mr. SARBANES - MD	X			
15 Ms. SEWELL - AL				
16 Ms. WILSON - FL	X			
17 Mr. CLARKE - MI	X			
TOTALS	16	14		

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 035 ROLL CALL NO.__7__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon.Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*				
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*				
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*		X		
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*				
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*		X		
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*				
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*	X			
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*	X			
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*	X			
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*	X			
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*				
TOTALS	13	15		

VII. Summary of Major Provisions of the Bill

TITLE I—REAUTHORIZATION

Extension length

H.R. 1425 reauthorizes the SBIR and STTR programs for 3 years until September 30, 2014.

SBIR and STTR award levels

The bill increases the size of SBIR and STTR awards from $100,000 to $150,000 for Phase I, and from $750,000 to $1 million for Phase II, and requires the SBA to make annual adjustments of the award sizes for inflation. Agencies are prohibited from issuing an SBIR or STTR award if the size of the award exceeds the award guidelines established in this section by more than 50 percent.

Agency and program flexibility

H.R. 1425 allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency and also allows small business concerns which received SBIR or STTR awards to receive awards for subsequent phases in either the STTR or SBIR program, respectively. Agencies are also permitted to make a Phase II award to a small business concern that has already completed the work typically done during Phase I, and to make a sequential Phase II award for a single project. For all awards, agencies must verify that any activity to be performed with respect to a project with a Phase I and Phase II award has not been funded from another federal agency.

Participation by firms with substantial investment from multiple venture capital operating companies in a portion of the SBIR Program

The National Institutes of Health, the Department of Energy, the National Aeronautics and Space Administration, and the National Science Foundation (NSF) are permitted to award up to 45 percent of SBIR funds to firms owned in majority part by multiple venture capital companies, hedge funds, or private equity firms. All other SBIR federal agencies shall allow small businesses owned in majority part by multiple venture capital companies, hedge funds, or private equity firms to compete for up to 35 percent of the agency's SBIR funds. The bill defines what affiliations are between various outside investors (such as venture capital companies, private equity firms, etc.) and small business concerns for purposes of determining whether the combination is eligible for an award under the SBIR program.

Collaborating with federal laboratories and research and development centers

The bill reduces the burden on cooperation between SBIR/STTR firms and federal laboratories by ensuring that such subcontracting is generally permitted without the requirement for a waiver. The provision also ensures that subcontracting to federal laboratories is not required of SBIR or STTR awardees. Further, it clarifies that firms that have entered into a cooperative agreement with a federal laboratory are eligible to receive SBIR/STTR awards. Finally,

the section limits the required advance payment from a small business concern working with a federal laboratory or federally funded research and development center to 30 days for expenses.

TITLE II COMMERCIALIZATION AND OUTREACH INITIATIVES

Technical assistance for awardees

H.R. 1425 increases the amount of discretionary technical assistance that SBIR and STTR agencies can contract out to provide to awardees from $4,000 to $5,000 for Phase I awards and from $4,000 to $5,000 per year for Phase II awards. It also requires agencies to provide SBIR and STTR award winners who wish to procure their own technical assistance with the allowable amount.

Commercialization Readiness Program and Pilot

The SBIR Commercialization Pilot Program (CPP) at the Department of Defense (DOD) is made permanent and extends it to the department's STTR program. The provision authorizes the Secretary of Defense to establish goals for transitioning Phase III technologies in subcontracting plans for contracts of $100 million or more. The provision also requires the Secretary of Defense to set a goal to increase the number of Phase II contracts that lead to technology transition into programs of record or fielded systems and to use incentives to encourage agency program managers and prime contractors to meet that goal. All non-DOD SBIR agencies are authorized to create Commercialization Readiness Pilot Programs (using no more than 10% of their program authorization) to grant post-Phase II awards up to $3 million to support advanced development of small business technologies.

Interagency Policy Committee

H.R. 1425 directs the Office of Science and Technology Policy to establish an SBIR/STTR Interagency Policy Committee to review and make policy recommendations on ways to improve the effectiveness and efficiency of the SBIR and STTR programs.

Shortened period for final decisions on proposals and applications

Section 206 of H.R. 1425 requires that not later than 90 days after, and if the Administrator authorizes an extension, then not later than 180 days, from the date on which the solicitation closes for SBIR and STTR programs, that the Administrator make a decision on each proposal submitted. It also allows the Director of the National Institutes of Health (NIH) to make an award under the SBIR or STTR programs provided an application for award undergoes a technical and scientific peer review

TITLE III—OVERSIGHT AND EVALUATION

Streamlining annual evaluation requirements

This provision requires the Administration to report to Congress at least annually the number of proposals received from firms with venture capital, private equity, or hedge fund investment, including those owned and controlled by multiple venture capital, private equity, or hedge fund firms. It also requires the Administration to report on efforts to increase outreach to firms owned and controlled by women and socially or economically disadvantaged individuals,

the implementation and compliance with the allocation of funds for firms majority owned and controlled by multiple venture capital, private equity or hedge fund companies, and appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives.

Finally, the section requires the Administration to coordinate the implementation of electronic databases at the participating agencies.

Public and government databases and data collection

The bill requires that the public database maintained by the Administrator include information on the ownership makeup of a firm, and that the government database maintained by the Administrator in coordination with the agencies for the purposes of evaluation of the SBIR and STTR programs include information on the ownership structure and affiliations of awardee firms. Agencies must annually collect this data.

Continued evaluation by the National Academy of Sciences

This section requires the head of each Agency described in subsection (a) to cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to continue its evaluation of the SBIR program through the end of fiscal year 2021 and requires that updates of the studies be provided to Congress every four years from the date of enactment. The section also authorizes the National Research Council to expand its study to include a study of how the STTR program has stimulated technological innovation and used small businesses to meet Federal technology transfer objectives.

Pilot to allow funding for administrative, oversight, and contract processing costs

H.R. 1425 requires that the Administrator allow each Federal agency to use not more than 3 percent of the funds allocated to the SBIR programs for costs relating to administrative, oversight and contract processing activities for SBIR programs, commercialization initiatives, technical assistance initiatives, and outreach initiatives to raise awareness of, and increase participation in, the SBIR and STTR programs.

Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse

Language in H.R. 1425 requires the Administrator to, not later than 90 days after the enactment of this Act, amend the SBIR Policy Directive and the STTR Policy Directive to include a set of specific measures to prevent fraud, waste, and abuse. The section also requires the Inspectors General of participating Federal agencies to coordinate activities to prevent and detect fraud, waste, and abuse.

TITLE IV—POLICY DIRECTIVES

Conforming amendments to the SBIR and the STTR policy directives

The bill requires conforming amendments to the SBA's SBIR and STTR Policy Directives within 180 days to implement the provi-

sions of this Act. It also requires that the Administration publish the SBIR and STTR Policy Directives in the Code of Federal Regulations within 180 days

TITLE V—OTHER PROVISIONS

H.R. 1425 includes provisions: requiring agencies to develop metrics and annually evaluate their programs; articulating that all SBIR and STTR awards are made through a competitive, merit-based process; requiring the SBA to develop regulations regarding small business loan restrictions; and requiring participating Federal agencies to encourage SBIR and STTR applications from underrepresented business groups.

VIII. COMMITTEE VIEWS

In 1982, legislators created the SBIR program to incorporate more small businesses into the federal research innovation partnership. The program later expanded to the STTR program, incorporating research institutions to collaborate with small businesses. The SBIR program has been found by the National Research Council, an independent body, in the Council's *Assessment of the SBIR Program* to be "sound in concept and effective in practice."

The SBIR and STTR programs have been significant engines of job creation and have been catalysts for innovation across our nation. The Committee supports the reauthorization of these vital programs.

Increased award sizes

The Committee agrees with National Research Council recommendations to increase SBIR and STTR program award sizes from $100,000 to $150,000 for Phase I awards and from $750,000 to $1 million for Phase II awards. These award sizes reflect increases in inflation since the previous award guidelines were set, allowing Phase I and Phase II awards to better achieve their research and development objectives.

Increased data collection for program evaluation

It is extremely important to measure the effectiveness and the efficiency of the SBIR and STTR programs in achieving their objectives. There is currently a lack of sufficient detailed information about participation in, and outcomes of, the SBIR and STTR programs across the agencies. Therefore, H.R. 1425 requires participating Federal agencies to collect more data on program participants and maintain greater information on program administration. The Committee expects that this data will inform future SBIR and STTR program authorizations and regulations, helping taxpayers achieve a stronger return on their investment.

Interagency policy committee

The Committee anticipates that the Interagency Policy Committee, established in Section 204 of the bill, will be jointly chaired by OSTP and the Small Business Administration, and include members from the SBIR and STTR agencies, as well as the Office of Management and Budget. The Interagency Policy Committee should utilize the increased collection of data required under H.R.

1425 to make recommendations on ways to improve the outcomes and administration of the SBIR and STTR programs.

Shortened period for final decisions on proposals and applications

H.R. 1425 includes a requirement for agencies to make a final decision on proposals not later than 90 days after a SBIR or STTR solicitation has closed. The intent of this provision is to ensure that small businesses receive information about their applications in a timely manner.

The Committee added a provision in subcommittee markup, permitting both the National Science Foundation (NSF) and the National Institutes of Health (NIH) an exemption from this requirement, in order to allow these two agencies to fulfill their standard peer review requirements, which typically take longer than 90 days to complete. The Committee's view is that these two agencies have a rigorous peer review process to which all extramural research grants are subjected, and that this process ensures the high quality of SBIR and STTR grants.

However, the Committee does not intend for the NSF and NIH peer review exemption to allow these agencies to ignore the 90-day requirement. Both agencies should strive to adhere to Section 206, and when the peer review process necessitates exceeding the 90-day requirement, NSF and NIH program administrators should make every effort to make decisions on grants as expeditiously as possible.

Administration, oversight, and outreach

The bill provides agencies the ability, for the first time, to use up to three percent of SBIR program funding to support outreach and other administrative activities. The Committee supports the flexibility of the provision, which allows agencies the ability to choose how these funds can be used. Allowable activities for the three percent include: program administration and personnel, outreach and technical assistance, commercialization outreach initiatives, and prevention of waste, fraud and abuse. As provided in H.R. 1425, an agency may choose to spend any or all of that funding on any of these activities.

The 1982 Act that established the SBIR program included four primary goals. One of those goals was "to foster and encourage participation by minority and disadvantaged persons in technological innovation". This goal remains unchanged, and all SBIR agencies are working to achieve this goal. To gather specific data on this topic, H.R. 1425 requires all participating agencies to report on the extent to which it is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals. GAO is also tasked with reporting exactly how much money agencies are spending on outreach activities.

Recognizing that the SBIR program is utilized by 11 different agencies with different needs, the Committee supports the flexibility provided for the three percent pilot program and not further restricting how these funds may be spent. The Committee expects that each agency will strive to encourage applications from individuals that are shown to be underrepresented in the SBIR/STTR programs.

Maintaining the current amount set-aside from agency research budgets for SBIR and STTR

The Committee did not include a provision to increase the percentage of extramural research and development funding allocated to the SBIR or STTR programs. Federal research agencies face tight budgets in the future, and current competition for extramural research grants is very high. The Committee's view historically has been that the SBIR and STTR programs are very successful, but should grow as the overall agency budget grows. Committee Members do not see significant justification to increase the size of these programs at the cost of decreasing the remainder of the extramural research budgets.

Recognizing that H.R. 1425 makes a number of significant changes to the current program, the Committee acknowledges that the overall demand for SBIR and STTR awards could be impacted. Consequently, the Committee supports the three-year authorization, as further modifications to the program, including revisiting the merits of changing the set-aside amount, will be prudent after three years.

Participation of small businesses owned in majority part by multiple venture capital operating companies

The Committee believes that allowing small businesses that are owned in majority part by multiple venture capital companies to compete for a limited percentage of SBIR awards will increase the applicant pool and potentially lead to better research and development projects.

In a 2009 study entitled, *Venture Funding and the NIH SBIR Program*, the National Research Council stated that the 2003 SBA Administrative Law ruling prohibiting majority venture capital backed firms from participating in the SBIR program "falls disproportionately on the most promising firms—i.e., those firms that have repeatedly been selected by both NIH for their promising technologies and by venture investors for their commercial potential." The Committee feels the absence of these companies in the program may have diminished the research and development outcomes of the program.

However, the Committee also believes that the SBIR program should reserve a majority of program funding for small businesses that don't have majority venture capital backing. Therefore, the maximum percentage of SBIR award funding for which a company with majority venture capital backing can compete is 45 percent at the National Institutes of Health, the Department of Energy, the National Aeronautics and Space Administration, and the National Science Foundation. The maximum percentage at all other participating agencies is 35 percent.

The Committee supports a three-year reauthorization period to measure the effectiveness of these changes to the legislation.

Measures to detect and prevent fraud, waste and abuse

H.R. 1425 includes several new measures to detect and prevent fraud, waste, and abuse in the SBIR and STTR programs. The bill requires that the government database maintained by the SBA Administrator and participating Federal agencies include identifying information on SBIR and STTR applicants and recipients. The

Committee believes this enhanced information will help program administrators prevent the provision of duplicate awards for similar work across different participating Federal agencies. The Committee also supports provisions that require participating agency Inspectors General to cooperate to prevent fraud, waste, and abuse through coordination of activities and sharing of best practices.

IX. Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held an oversight hearing and made findings that are reflected in the descriptive portions of this report.

X. Statement of General Performance Goals and Objectives

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report, including the goal to reauthorize the Small Business Innovation Research Program (SBIR) and the Small Business Technology Transfer Program (STTR) to create jobs through innovation while evaluating each program's effectiveness and preventing fraud, waste, and abuse.

XI. New Budget Authority, Entitlement Authority, and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. Advisory on Earmarks

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011", contains no earmarks.

XIII. Committee Cost Estimate

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XIV. Congressional Budget Office Estimate

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

MAY 18, 2011.

Hon. RALPH M. HALL,
Chairman, Committee on Science, Space, and Technology,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011.

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. 1425–Creating Job Through Small Business Innovation Act of 2011

Summary: H.R. 1425 would extend and expand programs that require certain federal agencies to set aside portions of their research and development budgets for small businesses. The bill also would require participating agencies to collect and report information about program participants that would be used both for program evaluation and for business development. In addition, H.R. 1425 would authorize the Government Accountability Office (GAO) and the National Academy of Sciences (NAS) to study the operation and effectiveness of the programs.

Based on information from the Small Business Administration (SBA) and other participating agencies, CBO estimates that implementing H.R. 1425 would cost $14 million over the 2012–2016 period, subject to appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 1425 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. 1425 is shown in the following table. The costs of this legislation fall within several budget functions, including 050 (national defense), 250 (general science, space, and technology), and 550 (health).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
National Academy of Science Study:						
Estimated Authorization Level	6	0	0	0	8	14
Estimated Outlays	1	2	2	1	1	7
Additional Agency Activities:						
Estimated Authorization Level	3	2	1	1	1	8
Estimated Outlays	2	2	1	1	1	7
Total Changes Under H.R. 1425:						
Estimated Authorization Level	9	2	1	1	9	22
Estimated Outlays	3	4	3	2	2	14

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 consist 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, award contracts, prepare reports, and track outcomes. The organizational structure of the program offices varies. 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 before the end of fiscal year 2011 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. 1425 would cost $14 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

National Academy of Sciences study

H.R. 1425 would direct certain agencies participating in the SBIR program to enter into an agreement with the NAS for the National Research Council to study the degree to which the SBIR and STTR programs have stimulated innovation and encouraged the use of small businesses to meet federal R&D needs. Reports presenting results of the studies would be due four years after enactment and every four years thereafter. Using those results, NAS also would develop recommendations for improving the SBIR and STTR programs. Based on information from NAS, CBO estimates that conducting the studies as required by H.R. 1425 would cost $7 million over the 2012–2016 period.

Additional agency activities

H.R. 1425 would require SBA to upgrade the data systems used to consolidate information from participating agencies and evaluate their performance. The bill also would require SBA to develop new performance measures and regulations to reflect changes in the SBIR and STTR programs. Based on information from SBA, CBO estimates that those new efforts would cost $5 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

The bill also would require GAO to conduct several studies for the Congress, including one to determine whether the agencies participating in the SBIR and STTR programs are complying with the programs' requirements to allocate a specific portion of their R&D budgets and another to assess whether agencies participating in

the SBIR program are sufficiently protecting the intellectual property rights of the small businesses that receive awards under the program. CBO estimates that conducting such studies would cost about $2 million over the 2012–2016 period, subject to the availability of appropriated funds.

Reauthorization and expansion of the SBIR and STTR programs

The bill would extend both the SBIR and STTR programs through 2014. Under current law, both programs are scheduled to terminate on May 31, 2011, when a temporary reauthorization of all SBA programs expires.

To cover the administrative costs of the programs, H.R. 1425 would establish a three-year pilot program that would authorize participating agencies to use up to 3 percent of the R&D amounts set aside for the SBIR program, rather than paying those costs from general operating funds. The pilot program also would allow agencies to use R&D funds to provide outreach and technical assistance to recipients of awards and to carry out additional duties as required under the bill. CBO estimates that the amount allocated for administrative expenses under the pilot program would fully offset such costs incurred by participating agencies in 2012, 2013, and 2014, when authorization for the programs would expire.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: H.R. 1425 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would create a grant program to assist public universities in the commercialization of research and technology. Any costs to universities would be incurred voluntarily.

Previous CBO estimate: On March 11, 2011, CBO transmitted a cost estimate for S. 493, the SBIR/STTR Reauthorization Act of 2011, as ordered reported by the Senate Committee on Small Business and Entrepreneurship on March 9, 2011. The Senate bill would extend the programs through 2019 and raise the amounts that participating agencies would set aside for the SBIR and STTR programs. The Senate bill also would authorize funds for the Federal and State Technology Partnership Program.

Estimate prepared by: Federal costs: Susan Willie and Martin von Gnechten; Impact on state, local, and tribal governments: Elizabeth Cove Delisle; Impact on the private sector: Sam Wice.

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

XV. Federal Mandates Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XVI. Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XVII. Applicability to Legislative Branch

The Committee finds that the legislation 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.

XVIII. SECTION-BY-SECTION ANALYSIS

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension length

This section extends the SBIR and STTR programs for 3 years until September 30, 2014.

Sec. 102. SBIR and STTR award levels

This section increases the size of SBIR and STTR awards from $100,000 to $150,000 for Phase I and from $750,000 to $1 million for Phase II, and requires the SBA to make annual adjustments of the award sizes for inflation. The provision prohibits any agency from issuing an SBIR or STTR award if the size of the award exceeds the award guidelines established in this section by more than 50 percent. Finally, the provision requires federal agencies to maintain information on awards exceeding the award guidelines; including the award amount; a justification for exceeding the guidelines; the identity and location of the recipient; and whether or not the recipient firm has received venture capital, hedge fund, or private equity firm investment, and if so, whether or not it is majority owned and controlled by one or more venture capital companies, hedge funds, or private equity firms. Nothing shall prevent a Federal agency from supplementing an award under the SBIR or STTR programs with Federal funds that are outside of the SBIR and STTR allocations.

Sec. 103. Agency and program flexibility

Section 103 allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency and also allows small business concerns which received SBIR or STTR awards to receive awards for subsequent phases in either the STTR or SBIR program, respectively.

Sec. 104. Elimination of Phase II invitations

This section requires that federal agencies conduct their solicitation of Phase II SBIR and STTR proposals without any invitation, pre-screening, pre-selection, or down-selection process between the first and second phase.

Sec. 105. Phase flexibility

This section grants agencies the ability to provide a Phase II Award if the Agency finds that the small business concern has already completed the work typically done during Phase I.

Sec. 106 and Sec. 107. Participation by firms with substantial investment from multiple venture capital operating companies in a portion of the SBIR program

Section 106 allows the Departments of Health and Human Services, and Energy, the National Aeronautics and Space Administration and the National Science Foundation to permit firms majority owned and controlled by one or more venture capital companies, one or more hedge funds, or one or more private equity firms to

compete for up to 45 percent of the agency's SBIR funds. All other qualifying federal agencies shall allow majority owned private investment backed small businesses to compete for up to 35 percent of the agency's SBIR funds. Sec. 107 defines affiliations between various outside investors (such as venture capital companies, private equity firms, etc.) and small business concerns for purposes of determining whether the combination is eligible for an award under the SBIR program.

Sec. 108. SBIR and STTR special acquisition preference

This section codifies the language from the SBIR and STTR Policy Directives confirming the intent of Congress to establish a special acquisition preference for SBIR and STTR Phase III awards. The provision clarifies that preference for contracts concerning research developed with SBIR or STTR funds should go to the developers and holders of SBIR and STTR technologies to the greatest extent practicable.

Sec. 109. Collaborating with federal laboratories and research and development centers

Section 109 reduces the burden on cooperation between SBIR/STTR firms and federal laboratories and/or federally funded research and development centers by ensuring that such subcontracting is generally permitted without the requirement for a waiver. The provision also ensures that subcontracting to federal laboratories is not required of SBIR or STTR awardees. Further, it clarifies that firms that have entered into a cooperative agreement with a federal laboratory are eligible to receive SBIR/STTR awards. The section also limits the required advance payment from a small business concern working with a federal laboratory or federally funded research and development center to 30 days for expenses.

Sec. 110. Notice requirement

This section ensures that the SBA is notified any time the SBIR or STTR policy directives are challenged in court.

Sec. 111. Additional SBIR and STTR awards

The section allows SBIR and STTR applicants to receive one sequential Phase II award for a single project. It also requires agencies to verify that any activity to be performed with respect to a project with a Phase I and Phase II award has not been funded from another Federal agency.

TITLE II—COMMERCIALIZATION AND OUTREACH INITIATIVES

Sec. 201. Technical assistance for awardees

This section increases the total amount of funds that a participating federal agency may use to contract with a vendor to provide technical assistance services for an individual SBIR or STTR award recipient from $4,000 to $5,000 for Phase I awards and from $4,000 to $5,000 per year for Phase II awards, and extends the term of an allowable contract from three years to five years. The provision also states that this amount shall be in addition to the amount of the recipient's award. It also requires agencies to provide SBIR and STTR award winners who wish to procure their own technical as-

sistance with the allowable amount. Further, the provision prohibits the agencies from using these funds to pay its contractor for technical assistance for a given SBIR or STTR award unless the contractor provides the technical assistance to that awardee. Finally, the provision prohibits a federal agency from entering into a contract with a vendor, under which the amount provided for technical assistance is based on the total number of Phase I or Phase II awards.

Sec. 202. Commercialization Readiness Program at Department of Defense

Section 202 extends the SBIR Commercialization Pilot Program (CPP) at the Department of Defense permanently and extends it to the department's STTR program. It also changed the name to the Commercialization Readiness Program (CRP). The provision authorizes the Secretary of Defense to establish goals for transitioning Phase III technologies in subcontracting plans for contracts of $100 million or more. The provision also requires the Secretary of Defense to set a goal to increase the number of Phase II contracts that lead to technology transition into programs of record or fielded systems and to use incentives to encourage agency program managers and prime contractors to meet that goal. Finally, the provision includes reporting requirements on the status of projects funded through CRP.

Sec. 203. Commercialization Readiness Pilot Program for civilian agencies

This section authorizes agencies other than the Department of Defense to create Commercialization Readiness Pilot Programs (using no more than 10 percent of their program authorization) to support advanced development of small business technologies. The provision authorizes these agencies to grant post-Phase II awards up to two times the regular size (up to $3 million). The bill directs agencies making awards under this program to consider whether the technology to be supported by the award is likely to be manufactured in the United States. Authority to establish such a pilot program expires at the end of FY2014.

Sec. 204. Interagency Policy Committee

This section directs the Office of Science and Technology Policy to establish an SBIR/STTR Interagency Policy Committee to review and make policy recommendations on ways to improve the effectiveness and efficiency of the SBIR and STTR programs.

Sec. 205. Clarifying definition of Phase III

This section revises the definition of "Phase III" of the SBIR program so that it is clear that such work shall be directed toward commercial applications and derives from research and development completed in earlier phases.

Sec. 206. Shortened period for final decisions on proposals and applications

This section requires that not later than 90 days after, and if the Administrator authorizes an extension, then not later than 180 days, from the date on which the solicitation closes for SBIR and

STTR programs, that the Administrator make a decision on each proposal submitted. The bill allows the Director of the National Institutes of Health (NIH) and the Director of the National Science Foundation (NSF) to make an award under the SBIR or STTR programs only if an application for award undergoes agency technical and scientific peer review.

Sec. 207. Phase 0 Proof of Concept Partnership Pilot Program

This section creates a three-year pilot program which terminates at the end of Fiscal Year 2014, under which the Director of the National Institutes of Health (NIH) shall use $10 million of the NIH STTR allocation to provide awards to qualifying universities and research institutions to set up "Proof of Concept Partnerships" to fund competitive grants of no more than $100,000 for researchers to support proof of concept work and commercialization mentoring. Qualifying institutions may be awarded up to $1,000,000 per year for up to 3 years. The NIH Director shall submit a report to the congressional committees of jurisdiction, evaluating the activities of the program.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements

This section requires the Administration to report at least annually to Congress the number of proposals received from firms with venture capital, private equity, or hedge fund investment, including those owned and controlled by multiple venture capital, private equity, or hedge fund firms. It also requires the Administration to report on efforts to increase outreach to firms owned and controlled by women and socially or economically disadvantaged individuals, the implementation and compliance with the allocation of funds for firms majority owned and controlled by multiple venture capital, private equity or hedge fund companies, and appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives. Finally, the section requires the Administration to coordinate the implementation of electronic databases at the participating agencies.

Sec. 302. Data collection from agencies for SBIR

This section requires agencies with an SBIR program to collect data annually on several issues including whether or not an applicant business or awardee: has venture capital, private equity or hedge fund investment, and if so the extent of that investment; is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms; has foreign investors and who they are; is owned by a woman or has a woman as a principal investigator; is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; has a university affiliation; or is from a state receiving less SBIR funding for small businesses than a majority of other states. The provision also requires agencies to justify awards given that exceed the statuary guidelines.

Sec. 303. Data collection from agencies for STTR

Section 303 requires agencies with an STTR program to collect data annually on several issues including whether or not an applicant business or awardee: has venture capital, private equity or hedge fund investment, and if so, the extent of that investment; is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms; has foreign investors and who they are; is owned by a woman or has a woman as a principal investigator; is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; has a university affiliation; or is located in a state receiving less STTR funding than a majority of other states. The provision also requires agencies to justify awards given that exceed the statutory guidelines.

Sec. 304. Public database

This section requires that the public database maintained by the Administrator include information on whether or not a firm receiving an award: has venture capital, private equity or hedge fund investment; is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms is owned by a woman or has a woman as a principal investigator; is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; or has a university affiliation.

Sec. 305. Government database

This section requires that the government database maintained by the Administrator in coordination with the agencies for the purposes of evaluating the SBIR and STTR programs and of preventing fraud, waste, and abuse shall contain the following: identifying information on the small business that has been awarded an SBIR or STTR award; information on the key individual that will carry out the SBIR or STTR project; information on the awarded project; information on the ownership structure and affiliations of awardee firms that have venture capital, private equity, or hedge fund investment, and that are majority owned and controlled by multiple venture capital, private equity, or hedge fund firms. This government database shall also contain: the names, titles, and contact information of the key individuals that will carry out the SBIR and STTR awarded project; the Federal agency to which the application is made and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making SBIR and STTR awards; and a list of any individual or small business concern that has been convicted of a fraud-related crime or has been found civilly liable for a fraud related violation under the SBIR or STTR program.

Sec. 306. Accuracy in funding base calculations

Section 306 requires the Comptroller General of the United States to conduct an audit of the SBIR and STTR programs to determine whether federal agencies are complying with the expenditure requirements.

Sec. 307. Continued evaluation by the National Academy of Sciences

This section authorizes the National Academy of Sciences to continue its evaluation of the SBIR program through the end of fiscal year 2021 and requires that updates of the studies be provided to Congress every four years from the date of enactment. The bill requires the NRC to estimate the number of jobs created in the United States as a result of the SBIR and STTR programs. The bill also requires the NRC to conduct a comprehensive study of the STTR program to evaluate the effectiveness of the program in promoting collaborations between small businesses and research institutions, in transferring technology, and in commercializing technologies. The NRC shall also evaluate the economic effects of the program, the extent to which federal agencies are using Phase II award winners to fulfill their procurement needs, and the effectiveness of the current STTR allocation.

Sec. 308. Technology insertion reporting requirements

This section requires the Administration to include in its annual report to Congress information on Phase III awards issued by SBIR and STTR agencies, including the dollar amount of these awards, their recipients, and the name of the agency or the component of the agency issuing them.

Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations

This section requires each Federal agency that conducts an SBIR or STTR program to enable small business concerns that are SBIR or STTR applicants to indicate whether that Federal agency has consent to identify the small business concern to local and State-level economic development organizations.

Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs

Section 310 requires that the Administrator allow each Federal agency to not use more than 3 percent of the funds allocated to the SBIR programs for the first full three fiscal years beginning after the enactment of this subsection for costs relating to administration of the program; provision of outreach and technical assistance; implementation of commercialization and outreach initiatives; activities related to oversight and congressional reporting including waste, fraud, and abuse prevention activities; implementation of oversight and quality control measures; contract processing costs relating to the SBIR and STTR programs; and funding for additional personnel assistance with application reviews. Each Federal agency shall coordinate its activities to prevent waste, fraud, and abuse with its respective Inspector General, and each Federal agency that allocates more than $50 million to its SBIR program may share such funding with its Inspector General to carry out these activities.

Sec. 311. GAO Study with Respect to Outside Investment Involvement

This section requires that not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the

Comptroller General of the United States conduct a study on the impact of requirements relating to venture capital operating company, private equity firm, and hedge fund involvement in the SBIR and STTR programs.

Sec. 312. Reducing Vulnerability of SBIR and STTR Programs to Fraud, Waste, and Abuse

This section requires the Administrator to, not later than 90 days after the enactment of this Act, amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse. This section:

- Details guidelines for applicants, recipients, and Federal agencies to follow, allowing for more robust oversight and accountability in the program;
- Requires the SBA Administrator to develop specific applicant certification requirements in cooperation with the Council on Inspectors General on Integrity and Efficiency and the Office of Advocacy at the Administration;
- Provides suggested certification guidelines;
- Requires that Inspectors General of participating SBIR/STTR federal agencies cooperate to prevent fraud, waste, and abuse through coordination of activities and sharing of best practices; and
- Requires that the Government Accountability Office conduct a study assessing the effectiveness of federal agencies in combating fraud, waste, and abuse.

Sec. 313. Simplified Paperwork Requirements

This section directs the SBA Administrator to issue regulations or guidelines to (the extent possible) standardize SBIR and STTR application paperwork.

Sec. 314. Simplified Paperwork Requirements

Section 314 directs Comptroller General to conduct a study of and make recommendations on the effectiveness of the government and public databases in reducing vulnerabilities of the SBIR and STTR programs to fraud, waste, and abuse.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives

This section requires conforming amendments to the SBA's SBIR and STTR Policy Directives within 180 days to implement the provisions of this Act. It also requires that the Administration publish the SBIR and STTR Policy Directives in the Code of Federal Regulations within 180 days.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR program goals

Section 501 directs each federal agency required to participate in an SBIR or STTR program to: (1) develop metrics in conjunction with the Interagency Policy Committee described in Sec. 204 to evaluate the effectiveness and benefit of such program; (2) conduct an annual evaluation of their program using such metrics; and (3)

report evaluation results annually to the Administrator and the relevant Congressional Committees.

Sec. 502. Competitive selection procedures for SBIR and STTR programs

This section requires all SBIR or STTR funds to be awarded pursuant to competitive and merit-based selection procedures.

Sec. 503. SBA Regulations on loan restrictions

Section 503 requires the SBA to develop regulations solely for purposes of the SBIR program that when or how restrictive covenants in loan agreements would constitute control for purposes of affiliation.

Sec. 504. Program diversification

This section requires federal agencies to encourage applications from small business concerns located in rural areas, areas underrepresented in SBIR and STTR programs, and areas with unemployment rates greater than the national average, as well as business concerns owned or controlled by women, veterans, and minorities. This section requires federal agencies to encourage applications from small business concerns owned and controlled by persons with disabilities.

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. 3. (a) * * *

* * * * * * *

(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term "venture capital operating company" means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).

(bb) HEDGE FUND.—In this Act, the term "hedge fund" has the meaning given that term in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

(cc) PRIVATE EQUITY FIRM.—In this Act, the term "private equity firm" has the meaning given the term "private equity fund" in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

* * * * * * *

SEC. 9. (a) * * *

(b) It shall be the duty of the Administration, and it is hereby empowered—

(1) * * *

* * * * * * *

(7) to report not less than annually to the Committee on Small Business of the Senate, and to the Committee on Science and the Committee on Small Business of the House of Representatives, on the SBIR and STTR programs of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR and ⟦STTR programs, including the data⟧ *STTR programs, including—*

(A) the data on output and outcomes collected pursuant to subsections ⟦(g)(10), (o)(9), and (o)(15), the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns under each of the SBIR and STTR programs, and a description⟧ *(g)(8) and (o)(9);*

(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital, hedge fund, or private equity firm investment (including those majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms) under each of the SBIR and STTR programs;

(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (dd) for firms owned in majority part by venture capital operating companies, hedge funds, or private equity firms and participating in the SBIR program;

(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

(F) a description of the extent to which Federal agencies are providing in a timely manner information needed to maintain the database described in subsection (k); ⟦and⟧

(8) to provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing)⟦.⟧*; and*

(9) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data.

* * * * * * *

(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) * * *

(B) a second phase, [to further] *which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further* develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

(i) * * *

* * * * * * *

(C) where appropriate, a third phase *for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program*—

(i) * * *

(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or [scientific review criteria] *merit-based selection procedures*;

* * * * * * *

(6) the term "Small Business Technology Transfer Program" or "STTR" means a program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

(A) * * *

(B) a second phase, [to further develop proposed ideas to] *which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals that* meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

(C) where appropriate, a third phase *for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program*—

(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] *Phase II or Phase III* of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection[.]*;*

(10) the term "commercialization" means—

(A) the process of developing products, processes, technologies, or services; and

(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;

(11) the term "Phase I" means—

(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

(12) the term "Phase II" means—

(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

(13) the term "Phase III" means—

(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

(B) with respect to the STTR program, the third phase described in paragraph (6)(C).

(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

(1) * * *

(2) LIMITATIONS.—A Federal agency [shall not—

[(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or]

[(B) make available for the purpose] *shall not make available for the purpose* of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

[Effective on the first day of the fourth full fiscal year following the date of enactment, section 310(b)(3)(A) of H.R. 1425 provides for amendments to section 9(f)(2) of the Small Business Act as follows:]

(2) LIMITATIONS.—A Federal agency [shall not make available for the purpose] *shall not—*

(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

* * * * * * *

(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) * * *

* * * * * * *

(4)*(A)* unilaterally receive and evaluate proposals resulting from SBIR proposals; *and*

(B) make a final decision on each proposal submitted under the SBIR program—

(i) not later than 90 days after the date on which the solicitation closes; or

(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;

* * * * * * *

(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

(A) whether an awardee—

(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

(I) the amount of venture capital, hedge fund, or private equity firm investment that the awardee has received as of the date of the award; and

(II) the amount of additional capital that the awardee has invested in the SBIR technology;

(ii) has an investor that—

(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

(iii) is owned by a woman or has a woman as a principal investigator;

(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

(vi) is located in a State described in subsection (u)(3); and

(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;

[(8)] *(9)* make an annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy;

[(9)] *(10)* include, as part of its annual performance plan as required by subsections (a) and (b) of section 1115 of title 31, United States Code, a section on its SBIR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives;

[(10) collect, and maintain in a common format in accordance with subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k); and]

(11) provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing)[.]*; and*

(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency.

* * * * * * *

(i) ANNUAL REPORTING.—

(1) IN GENERAL.—Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of awards *(including awards under subsection (y))* pursuant to grants, contracts, or cooperative agreements over $10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

* * * * * * *

(j)(1) POLICY DIRECTIVES.—The Small Business Administration, after consultation with the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, and the Intergovernmental Affairs Division of the Office of Management and Budget, shall, within one hundred and twenty days of the enactment of the Small Business Innovation Development Act of 1982, issue policy directives for the general conduct of the SBIR programs within the Federal Government, including providing for—

(A) * * *

(B) a simplified, standardized funding process which provides for (i) the timely receipt and review of proposals; (ii) outside peer review for at least [phase two] *Phase II* proposals, if appropriate; (iii) protection of proprietary information provided in proposals; (iv) selection of awardees; (v) retention of rights in data generated in the performance of the contract by the small business concern; (vi) transfer of title to property provided by the agency to the small business concern if such a transfer would be more cost effective than recovery of the property by the agency; (vii) cost sharing; and (viii) cost principles and payment schedules;

* * * * * * *

(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

(A) * * *

(B) continued use by a small business concern participating in [the third phase] *Phase III* of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in [the second phase] *Phase II* of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in [the third phase] *Phase III* of such program;

* * * * * * *

(D) an increase to [$100,000] *$150,000* in the amount of funds which an agency may award in [the first phase] *Phase I* of an SBIR program, and to [$750,000] *$1,000,000* in [the second phase] *Phase II* of an SBIR program, and an adjustment of such amounts [once every 5 years to reflect economic adjustments and programmatic considerations] *every year for inflation*;

* * * * * * *

(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including [the third phase] *Phase III* of such programs, and the collection of data to document such participation;

(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for [the first phase] *Phase I* of an SBIR program and the application for and extension of an award for [the second phase] *Phase II* of such program;

(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for [the first phase] *Phase I* of an SBIR program and that has received more than 15 [second phase] *Phase II* SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure [third phase] *Phase III* funding to develop concepts resulting from previous [second phase] *Phase II* SBIR awards; and

* * * * * * *

(3) ADDITIONAL MODIFICATIONS.—Not later than 120 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall modify the policy directives issued pursuant to this subsection—

(A) to clarify that the rights provided for under paragraph (2)(A) apply to all Federal funding awards under this section, including [the first phase (as described in

subsection (e)(4)(A))] *Phase I*, [the second phase (as described in subsection (e)(4)(B))] *Phase II*, and [the third phase (as described in subsection (e)(4)(C))] *Phase III*;

(B) to provide for the requirement of a succinct commercialization plan with each application for a [second phase] *Phase II* award that is moving toward commercialization;

* * * * * * *

(k) DATABASE.—

(1) PUBLIC 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 shall develop, maintain, and make available to the public a searchable, up-to-date, electronic database that includes—

(A) the name, size, location, and an identifying number assigned by the Administrator, of each small business concern that has received a [first phase] *Phase I* or [second phase] *Phase II* SBIR or STTR award from a Federal agency;

(B) a description of each [first phase] *Phase I* or [second phase] *Phase II* SBIR or STTR award received by that small business concern, including—

(i) * * *

* * * * * * *

(D) information regarding mentors and Mentoring Networks, as required by section 35(d); [and]

(E) with respect to assistance under the STTR program only—

(i) * * *

* * * * * * *

(iv) how the proceeds from commercialization, marketing, or sale of technology resulting from each assisted STTR project were allocated (by percentage) between the small business concern and the research institution[.]*; and*

(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

(i) has venture capital, hedge fund, or private equity firm investment and, if so, whether the small business concern is registered as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms as required under subsection (dd)(3);

(ii) is owned by a woman or has a woman as a principal investigator;

(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; or

(iv) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(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] *Not later than 90 days after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011*, 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 small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

(ii) an abstract of the project;

(iii) the specific aims of the project;

(iv) the number of employees of the small business concern;

(v) the names and titles of the key individuals that will carry out the project, the position each key individual holds in the small business concern, and contact information for each key individual;

(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

(vii) whether the small business concern is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;

[(A)] *(B)* contains for each [second phase] *Phase II* 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] *Phase I* or [second phase] *Phase II* SBIR or STTR awards, to further the research and development conducted under the award; and

* * * * * * *

[(B)] *(C)* includes any narrative information that a small business concern receiving a [second phase] *Phase II* award voluntarily submits to further describe the outputs and outcomes of its awards;

[(C) includes for each applicant for a first phase or second phase award that does not receive such an award—

[(i) the name, size, and location, and an identifying number assigned by the Administration;

[(ii) an abstract of the project; and

[(iii) the Federal agency to which the application was made;]

(D) includes, for each awardee—

(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

(ii) whether the awardee has venture capital, hedge fund, or private equity firm investment, and, if so—

(I) the amount of venture capital, hedge fund, or private equity firm investment as of the date of the award;

(II) the percentage of ownership of the awardee held by a venture capital operating company, hedge fund, or private equity firm, including whether the awardee is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

(iii) the names and locations of any affiliates of the awardee;

(iv) the number of employees of the awardee;

(v) the number of employees of the affiliates of the awardee; and

(vi) the names of, and the percentage of ownership of the awardee held by—

(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

(II) any person that is not an individual and is not organized under the laws of a State or the United States;

[(D)] *(E)* includes any other data collected by or available to any Federal agency that such agency considers may be useful for SBIR or STTR program evaluation; [and]

[(E)] *(F)* is available for use solely for program evaluation purposes by the Federal Government or, in accordance with policy directives issued by the Administration, by other authorized persons who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database[.]*; and*

(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has been—

(i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or

(ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program.

(3) UPDATING INFORMATION FOR DATABASE.—

(A) IN GENERAL.—A small business concern applying for a [second phase] *Phase II* award under this section shall be required to update information in the database estab-

lished under this subsection for any prior [second phase] *Phase II* 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] *Phase II* 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] *Phase II* award under this section shall—

(i) * * *

* * * * * * *

(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.

* * * * * * *

(l) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) * * *

(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for [the first phase] *Phase I* of an SBIR program during the reporting period to entities that have received more than 15 awards for [the second phase] *Phase II* of an SBIR program during the preceding 5 fiscal years.

* * * * * * *

(m) [TERMINATION.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the authorization] *TERMINATION.—**The authorization*** to carry out the Small Business Innovation Research Program established under this section shall terminate on September 30, [2008] ***2014***.

[(2) EXCEPTION FOR DEPARTMENT OF DEFENSE.—The Secretary of Defense and the Secretary of each military department are authorized to carry out the Small Business Innovation Research Program of the Department of Defense until September 30, 2010]

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

(1) REQUIRED EXPENDITURE AMOUNTS.—

(A) [IN GENERAL.—

[(i) FEDERAL AGENCIES GENERALLY.—Except as provided in clause (ii), with respect] *IN GENERAL.—With respect* to each fiscal year through fiscal year [2009] *2014*, 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.

[(ii) DEPARTMENT OF DEFENSE.—The Secretary of Defense and the Secretary of each military department shall carry out clause (i) with respect to each fiscal year through fiscal year 2010.]

* * * * * * *

(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) * * *

* * * * * * *

(4)*(A)* unilaterally receive and evaluate proposals resulting from STTR solicitations; *and*

(B) make a final decision on each proposal submitted under the STTR program—

(i) not later than 90 days after the date on which the solicitation closes; or

(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;

* * * * * * *

[(9) collect such data from awardees as is necessary to assess STTR program outputs and outcomes;]

(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

(A) whether an applicant or awardee—

(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

(I) the amount of venture capital, hedge fund, or private equity firm investment that the applicant or awardee has received as of the date of the application or award, as applicable; and

(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

(ii) has an investor that—

(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

(II) is a person that is not an individual and is not organized under the laws of a State or the

United States, and if so the name of any such person;

(iii) is owned by a woman or has a woman as a principal investigator;

(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

(vi) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;

* * * * * * *

(13) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

(A) * * *

(B) the existence of ⟦second phase⟧ *Phase II* funding commitments from private sector or non-STTR funding sources;

(C) the existence of ⟦third phase⟧ *Phase III* follow-on commitments for the subject of the research; and

* * * * * * *

⟦(15) collect, and maintain in a common format in accordance with subsection (v), such information from awardees as is necessary to assess the STTR program, including information necessary to maintain the database described in subsection (k); and⟧

⟦(16)⟧ *(15)* provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing)⟦.⟧*; and*

(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.

(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) * * *

* * * * * * *

(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in [the second phase] *Phase II* of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in [the third phase] *Phase III* of such program;

* * * * * * *

(ix) 1-year awards for [the first phase] *Phase I* of an STTR program, generally not to exceed [$100,000] *$150,000*, and 2-year awards for [the second phase] *Phase II* of an STTR program, generally not to exceed [$750,000] *$1,000,000*, *(each of which the Administrator shall adjust for inflation annually)* greater or 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;

* * * * * * *

(3) MODIFICATIONS.—Not later than 120 days after the date of enactment of this paragraph, the Administrator shall modify the policy directive issued pursuant to this subsection to clarify that the rights provided for under paragraph (2)(B)(v) apply to all Federal funding awards under this section, including [the first phase (as described in subsection (e)(6)(A))] *Phase I*, [the second phase (as described in subsection (e)(6)(B))] *Phase II*, and [the third phase (as described in subsection (e)(6)(C))] *Phase III*.

(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program *or STTR program* may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in [SBIR projects] *SBIR or STTR projects* with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

(A) * * *

* * * * * * *

(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed [3 years] *5 years*. Such selection shall be competitive and shall utilize merit-based criteria.

(3) ADDITIONAL TECHNICAL ASSISTANCE.—

(A) [FIRST PHASE] *PHASE I*.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to [first phase] *Phase I* SBIR *or STTR* award recipients in an amount equal to not more than [$4,000] *$5,000*, which shall be in addition to the amount of the recipient's award.

[(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than $4,000 per year.]

(B) PHASE II.—A Federal agency described in paragraph (1) may—

(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award.

(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

(D) LIMITATION.—A Federal agency may not—

(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.

(r) [THIRD PHASE] *PHASE III* AGREEMENTS.—

(1) IN GENERAL.—In the case of a small business concern that is awarded a funding agreement [for the second phase] *for Phase II* of an SBIR or STTR program, a Federal agency may enter into a [third phase] *Phase III* agreement with that business concern for additional work to be performed during or after the [second phase period] *Phase II period*. The [second phase] *Phase II* funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to [third phase] *Phase III* agreements with that agency or any other agency.

(2) DEFINITION.—In this subsection, the term "[third phase] *Phase III* agreement" means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

* * * * * * *

(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.

* * * * * * *

(u) COORDINATION OF TECHNOLOGY DEVELOPMENT PROGRAMS.—

(1) * * *

(2) COORDINATION REQUIREMENTS.—Each Federal agency that is subject to subsection (f) and that has established a technology development program may, in each fiscal year, review for funding under that technology development program—

(A) * * *

(B) any proposal for [the first phase] *Phase I* of the SBIR program, if the proposal, though meritorious, is not funded through the SBIR program for that fiscal year due to funding restraints, from a small business concern located in—

(i) * * *

* * * * * * *

(v) [SIMPLIFIED REPORTING REQUIREMENTS.—The Administrator] *REDUCING PAPERWORK AND COMPLIANCE BURDEN.—*

(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator shall work with the Federal agencies required by this section to have an SBIR or STTR program to standardize reporting requirements for the collection of data from SBIR or STTR applicants and awardees, including data for inclusion in the database under subsection (k), taking into consideration the unique needs of each agency, and to the extent possible, permitting the updating of previously reported information by electronic means. Such requirements shall be designed to minimize the burden on small businesses.

(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than one year after the date of enactment of this paragraph, and after a period of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.

* * * * * * *

(y) COMMERCIALIZATION [PILOT] *READINESS* PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a "Commercialization [Pilot] *Readiness* Program" to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program *or Small Business Technology Transfer Program* to Phase III, including the acquisition process. *The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National*

Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).

(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization [Pilot] *Readiness* Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program *or Small Business Technology Transfer Program* that have the potential for rapid transitioning to Phase III and into the acquisition process.

* * * * * * *

[(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

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

[(B) shall not be used to make Phase III awards.

[(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

[(A) an accounting of the funds used in the Commercialization Pilot Program;

[(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and prime contractors; and

[(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and the number of projects commercialized.

[(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2010.]

(4) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

(5) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

(B) use incentives in effect on the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.

[Effective on the first day of the fourth full fiscal year following the date of enactment, section 310(b)(3)(B) of H.R. 1425 provides for amendments to section 9(y) of the Small Business Act by inserting a paragraph (4) after paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and reads as follows:]

(4) FUNDING.—

(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Pilot Program under this subsection.

(B) LIMITATIONS.—The funds described in subparagraph (A)—

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

(ii) shall not be used to make Phase III awards.

[(4)**]** *(5)* INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

(A) * * *

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[(5)**]** *(6)* GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

(A) * * *

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(aa) LIMITATION ON SIZE OF AWARDS.—

(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

(A) the amount of each award;

(B) a justification for exceeding the award amount;

(C) the identity and location of each award recipient; and

(D) whether an award recipient has received any venture capital, hedge fund, or private equity firm investment and, if so, whether the recipient is majority-owned by multiple

venture capital operating companies, hedge funds, or private equity firms.

(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.

(bb) SUBSEQUENT PHASE II AWARDS.—

(1) AGENCY FLEXIBILITY.—A small business concern that received a Phase I award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received a Phase I award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).

(cc) PHASE I REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I 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 a Phase I award.

(dd) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN THE SBIR PROGRAM.—

(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives not later than 30 days before the date on which an award is made—

(A) the Director of the National Institutes of Health, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation may award not more than 45 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns; and

(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 35 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns.

(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

(B) substantially contribute to the mission of the Federal agency;

(C) demonstrate a need for public research; and

(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and qualified for participation in the program authorized under paragraph (1) shall—

(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

(4) COMPLIANCE.—

(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).

(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1)

to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).

(6) FINAL DECISIONS ON APPLICATIONS UNDER THE SBIR PROGRAM.—

(A) DEFINITION.—In this paragraph, the term "covered small business concern" means a small business concern that—

(i) was not majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms on the date on which the small business concern submitted an application in response to a solicitation under the SBIR programs; and

(ii) on the date of the award under the SBIR program is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

(B) IN GENERAL.—If a Federal agency does not make an award under a solicitation under the SBIR program before the date that is 9 months after the date on which the period for submitting applications under the solicitation ends—

(i) a covered small business concern is eligible to receive the award, without regard to whether the covered small business concern meets the requirements for receiving an award under the SBIR program for a small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, if the covered small business concern meets all other requirements for such an award; and

(ii) the head of the Federal agency shall transfer an amount equal to any amount awarded to a covered small business concern under the solicitation to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency, not later than 90 days after the date on which the Federal agency makes the award.

(7) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital or investment from hedge funds or private equity firms as a criterion for the award of contracts under the SBIR program or STTR program.

(ee) VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.—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, hedge fund, or private equity firm (or with any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if—

(A) the venture capital operating company, hedge fund, or private equity firm does not own 50 percent or more of the business concern; and

(B) employees of the venture capital operating company, hedge fund, or private equity firm 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, hedge funds, or private equity firms;

(B) there is no single venture capital operating company, hedge fund, or private equity firm that owns 50 percent or more of the business concern; and

(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

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

(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.

(ff) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

(2) PROHIBITION.—No Federal agency shall—

(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal lab-

oratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.

(4) ADVANCE PAYMENT.—If a small business concern receiving an award under this section enters into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award, the Federal laboratory or federally funded research and development center may not require advance payment from the small business concern in an amount greater than the amount necessary to pay for 30 days of such activities.

(gg) ADDITIONAL SBIR AND STTR AWARDS.—

(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive one additional Phase II SBIR award or Phase II STTR award for continued work on that project.

(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.

(hh) PILOT PROGRAM.—

(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

(A) for awards for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR Phase II technologies; or

(B) to support the progress of research, research and development, and commercialization conducted under the SBIR or STTR programs to Phase III.

(2) APPLICATION BY FEDERAL AGENCY.—

(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a com-

pelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

(B) DETERMINATION.—The Administrator shall—

(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

(ii) publish the determination in the Federal Register; and

(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

(5) AWARD CRITERIA OR CONSIDERATION.—When making an award under this section, the head of a covered Federal agency shall give consideration to whether the technology to be supported by the award is likely to be manufactured in the United States.

(6) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

(7) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

(8) DEFINITIONS.—In this subsection—

(A) the term "covered Federal agency"—

(i) means a Federal agency participating in the SBIR program or the STTR program; and

(ii) does not include the Department of Defense; and

(B) the term "pilot program" means the program established under paragraph (1).

(ii) NIH PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health only if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).

(jj) NSF PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Science Foundation may make an award under the SBIR program or the STTR

program of the National Science Foundation only if the application for the award has undergone the National Science Foundation's technical and scientific peer review process and met all other applicable peer review procedures and guidelines pursuant to the National Science Foundation Act of 1950 (42 U.S.C. 1861, et seq.) and other applicable Federal law.

(kk) PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.—

(1) IN GENERAL.—The Director of the National Institutes of Health shall use $10,000,000 of the funds allocated under subsection (n)(1) for a Proof of Concept Partnership pilot program to accelerate the creation of small businesses and the commercialization of research innovations from qualifying institutions. To implement this program, the Director shall award, through a competitive, merit-based process, grants to qualifying institutions. These grants shall only be used to administer Proof of Concept Partnership awards in conformity with this subsection.

(2) DEFINITIONS.—In this subsection—

(A) the term "Director" means the Director of the National Institutes of Health;

(B) the term "pilot program" refers to the Proof of Concept Partnership pilot program; and

(C) the terms "qualifying institution" and "institution" mean a university or other research institution that participates in the National Institutes of Health's STTR program.

(3) PROOF OF CONCEPT PARTNERSHIPS.—

(A) IN GENERAL.—A Proof of Concept Partnership shall be set up by a qualifying institution to award grants to individual researchers. These grants should provide researchers with the initial investment and the resources to support the proof of concept work and commercialization mentoring needed to translate promising research projects and technologies into a viable company. This work may include technical validations, market research, clarifying intellectual property rights position and strategy and investigating commercial or business opportunities.

(B) AWARD GUIDELINES.—The administrator of a Proof of Concept Partnership program shall award grants in accordance with the following guidelines:

(i) The Proof of Concept Partnership shall use a market-focused project management oversight process, including—

(I) a rigorous, diverse review board comprised of local experts in translational and proof of concept research, including industry, start-up, venture capital, technical, financial, and business experts and university technology transfer officials;

(II) technology validation milestones focused on market feasibility;

(III) simple reporting effective at redirecting projects; and

(IV) the willingness to reallocate funding from failing projects to those with more potential.

(ii) Not more than $100,000 shall be awarded towards an individual proposal.

(C) EDUCATIONAL RESOURCES AND GUIDANCE.—The administrator of a Proof of Concept Partnership program shall make educational resources and guidance available to researchers attempting to commercialize their innovations.

(4) AWARDS.—

(A) SIZE OF AWARD.—The Director may make awards to a qualifying institution for up to $1,000,000 per year for up to 3 years.

(B) AWARD CRITERIA.—In determining which qualifying institutions receive pilot program grants, the Director shall consider, in addition to any other criteria the Director determines necessary, the extent to which qualifying institutions—

(i) have an established and proven technology transfer or commercialization office and have a plan for engaging that office in the program implementation;

(ii) have demonstrated a commitment to local and regional economic development;

(iii) are located in diverse geographies and are of diverse sizes;

(iv) can assemble project management boards comprised of industry, start-up, venture capital, technical, financial, and business experts;

(v) have an intellectual property rights strategy or office; and

(vi) demonstrate a plan for sustainability beyond the duration of the funding award.

(5) LIMITATIONS.—The funds for the pilot program shall not be used—

(A) for basic research, but to evaluate the commercial potential of existing discoveries, including—

(i) proof of concept research or prototype development; and

(ii) activities that contribute to determining a project's commercialization path, to include technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities; or

(B) to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

(6) EVALUATIVE REPORT.—The Director shall submit to the Committee on Science, Space, and Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an evaluative report regarding the activities of the pilot program. The report shall include—

(A) a detailed description of the institutional and proposal selection process;

(B) an accounting of the funds used in the pilot program;

(C) a detailed description of the pilot program, including incentives and activities undertaken by review board experts;

(D) a detailed compilation of results achieved by the pilot program, including the number of small business concerns included and the number of business packages developed,

and the number of projects that progressed into subsequent STTR phases; and

(E) an analysis of the program's effectiveness with supporting data.

(7) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2014.

(ll) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

(2) the name of the small business concern or individual receiving the Phase III award; and

(3) the dollar amount of the Phase III award.

(mm) 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 or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

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

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

(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).

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

(1) IN GENERAL.—Subject to paragraph (2), for the 3 full fiscal years beginning after the date of enactment of this subsection, the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

(A) the administration of the SBIR program or the STTR program of the Federal agency;

(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits and personnel interviews;

(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

(D) carrying out the program under subsection (y);

(E) activities relating to oversight and congressional reporting, including waste, fraud, and abuse prevention activities;

(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency

that the head of the Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program or STTR program, respectively;

(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

(H) carrying out subsection (dd);

(I) carrying out subsection (hh);

(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

(K) funding for additional personnel and assistance with application reviews.

(2) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

(3) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.

(4) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than $50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.

(oo) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

(A) are science-based and statistically driven;

(B) reflect the mission of the Federal agency; and

(C) include factors relating to the economic impact of the programs.

(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

(A) the SBIR program and the STTR program of the Federal agency; and

(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

(3) REPORT.—

(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

(C) DEFINITION.—In this paragraph, the term "appropriate committees of Congress" means—

(i) the Committee on Small Business and Entrepreneurship of the Senate; and

(ii) the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

(pp) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.

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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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(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter—

(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1);

(B) conduct a comprehensive study of how the STTR program has stimulated technological innovation and technology transfer, including—

(i) a review of the collaborations created between small businesses and research institutions, including an evaluation of the effectiveness of the program in stimulating new collaborations and any obstacles that may prevent or inhibit the creation of such collaborations;

(ii) an evaluation of the effectiveness of the program at transferring technology and capabilities developed through Federal funding;

(iii) an evaluation of the program's success at commercializing technologies compared with other Federal technology transfer programs and the SBIR program;

(iv) to the extent practicable, an evaluation of the economic benefits achieved by the STTR program, including the economic rate of return;

(v) an analysis of how Federal agencies are using small businesses that have completed Phase II under the STTR program to fulfill their procurement needs; and

(vi) an analysis of whether the existing STTR allocation has impacted the effectiveness of the program in achieving its goals;

(C) make recommendations with respect to the issues described in subparagraph (A), (D), and (E) of subsection (a)(2) and subparagraph (B) of this paragraph; and

(D) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure that there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

(3) REPORTING.—An agreement under paragraph (1) shall require that—

(A) not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1); and

(B) not later than 2 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report of preliminary findings and recommendations regarding the study conducted under paragraph (1)(B).

XX. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF REPRESENTATIVES JOHNSON AND WILSON

We are pleased to support H.R. 1425, the *Creating Jobs Through Small Business Innovation Act of 2011.* Small businesses are key players in fueling technological innovation and creating jobs in the United States. We can help to ensure a vibrant small business community in this country by enacting a comprehensive reauthorization of the SBIR and STTR programs.

However, we are very troubled that the legislation does not include a formal outreach provision and extremely disappointed that our efforts to address this omission were blocked. We believe that innovation can come from anywhere and that all small businesses are capable of developing innovative new technologies. Our chances of getting game-changing innovation are significantly increased if the SBIR applicant pool is larger and more diverse. For this reason, a formal outreach program focused on bringing additional qualified small businesses into the SBIR program is appropriate. Such a program should target small businesses owned by veterans and small businesses located in rural areas and areas suffering from high unemployment, as well as small businesses owned by women and minorities.

One of the four stated congressional objectives of the SBIR program is to encourage greater participation by women-and minority-owned small businesses. Unfortunately, in its 2008 evaluation of the SBIR program, the National Research Council found that the program was not meeting this objective. Despite this, Democratic attempts at both the subcommittee and Full Committee markups to provide agencies with a formal mechanism for carrying out outreach and technical assistance activities and to supply them with the required resources to do so were blocked.

Majority objections to an outreach program were initially linked to cost. However, a cost-neutral proposal was also rejected over unfounded concerns that it created a mandate. A plain reading of the cost-neutral proposal demonstrates that it did not require all SBIR agencies to fund outreach and technical assistance activities. Only the agencies that chose to participate in the pilot program under Section 310 would have been required to set aside a small percentage of funding for targeted outreach activities. Moreover, a reasonable waiver clause was included for cases where an exemption from the requirement would be necessary and appropriate. That being said, making any initiative entirely elective—as proposed by some of our Majority colleagues at the markup—will simply not address the participation challenges facing the SBIR program and is not acceptable.

We will have shirked our responsibilities to the SBIR program and previous congressional intent if we continue to ignore this issue and fail to include a meaningful provision in the bill to ensure that outreach to underrepresented small businesses is occurring. It is our sincere hope that this issue will be adequately addressed as this legislation moves forward.

EDDIE BERNICE JOHNSON.
FREDERICA WILSON.

XXI: PROCEEDINGS OF THE MARKUP BY THE SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION'S MARKUP ON H.R. 1425, CREATING JOBS THROUGH SMALL BUSINESS INNOVATION ACT OF 2011

WEDNESDAY, April 13, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:09 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Benjamin Quayle [Chairman of the Subcommittee] presiding.

Chairman QUAYLE. Good morning. The Subcommittee on Technology and Innovation of the Committee on Science, Space, and Technology will come to order.

Pursuant to notice, the Subcommittee on Technology and Innovation meets to consider the following measure: H.R. 1425, the *Creating Jobs through Small Business Innovation Act of 2011*. We will now proceed with the markup beginning with opening statements, and I will begin.

Today our Subcommittee will consider H.R. 1425, the Creating Jobs through Small Business Innovation Act of 2011. This bill was introduced on April 7th and referred to our Subcommittee. H.R. 1425 authorizes the Small Business Innovation Research and the Small Business Technology Transfer programs through fiscal year 2014.

These programs play a vital role in expanding innovation, and increasing the role of small business in federal research and development. They have also helped thousands of small businesses create and sustain jobs, and commercialize their products.

While the SBIR and STTR programs have been effective, there are areas where they can be improved. I will summarize a few of the major changes proposed in H.R. 1425. First, the legislation increases the award amounts in both the SBIR and STTR programs for phase I and phase II to $150,000 and $1 million, respectively. The legislation also provides for the award size to be annually indexed to inflation moving forward.

Second, the legislation enables majority venture capital-backed firms to compete for a limited percentage of SBIR awards. Up until a 2005 administrative ruling, small businesses with majority backing by venture capital were eligible to participate in SBIR. The leg-

islation we are considering today would set a ceiling on the amount of funds that each agency may award to companies with substantial venture capital backing. Allowing these firms to compete for a percentage of awards will continue to provide agencies with the flexibility of making awards to the most competitive companies, regardless of their venture capital relationship, while preserving the majority of awards for small businesses without substantial venture capital involvement.

Third, the program continues to emphasize the importance of commercializing technologies by creating commercialization pilot programs and providing increased use of funds for technology assistance. The SBIR and STTR programs must continue to evolve to help companies overcome the "Valley of Death" between basic research and commercialization.

Most importantly, the legislation requires rigorous evaluation of the programs to ensure that we are getting the greatest return on our taxpayer investment. Currently, our ability to conduct effective evaluations is hampered by insufficient data collection and a lack of common measurement criteria among participating federal agencies. The legislation before us today would strengthen SBIR and STTR data collection requirements and evaluations, both at the individual agencies and within the management of the entire program at the Small Business Administration. This is particularly necessary in today's budget environment.

I am pleased that Ranking Member Wu has chosen to be an original cosponsor of this legislation, and recognize that he has championed these programs over the years. We both agree that the lack of a substantive reauthorization creates uncertainty for many small businesses across the nation, and may have the effect of limiting some innovations these programs could otherwise support. I would also like to acknowledge and thank Chairman Hall and Ranking Member Johnson for joining us as original cosponsors of this legislation. I strongly urge my colleagues to support H.R. 1425.

[The statement of Mr. Quayle follows:]

PREPARED STATEMENT OF CHAIRMAN BENJAMIN QUAYLE

Today our subcommittee will consider H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. This bill was introduced on April 7 and referred to our Subcommittee. H.R. 1425 authorizes the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs through fiscal year 2014.

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nies, regardless of their venture capital relationship, while preserving the majority of awards for small businesses without substantial venture capital involvement.

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Ranking Member WU. I now recognize the gentleman from Oregon for his opening statement.

Mr. WU. Thank you, Chairman Quayle. I have looked forward to this day. I think that by coming out of the chute fast on this bill that we will get this bill passed and it is important. It will be the first jobs legislation out of this Congress. It is important because small businesses are the most important component of jobs creation as well as creating an innovation-based economy, and I want to recognize your leadership in putting this bill together and Mr. Hall, the Chairman of the Full Committee, for his contribution in putting this legislation together.

We have passed this legislation through the last two Congresses, and each time we have come close to getting the legislation done, but last time it came right down to the last day of the lame-duck session. This time, I think that coming out first and early means that we will get the legislation done.

Small businesses are crucial to the economic growth of our Nation and our ability to create new jobs. In fact, according to the Small Business Administration, small businesses have created 64 percent of the net new jobs over the last 15 years. The SBIR and STTR programs are the largest source of federal support for technologic innovation in the private sector. These programs are instrumental in spurring innovation by small businesses in this country and helping them to create jobs.

As our hearing last month also highlighted, small businesses also fill a crucial role in meeting federal technologic needs, particularly in the national security sector. The SBIR and STTR programs tap into the unique capabilities of small businesses to develop cost-effective and technologic solutions quickly and efficiently.

The bill we are marking up today is a good bill. The bipartisan bill that we moved through the Committee and passed through the House last Congress serves as a good template for this bill. Also, the bill builds upon some of the very good work that was done in the Senate at the end of the last session.

The message is clear: After more than 3 years of working on a comprehensive reauthorization, we have finally reached a place where there is nearly universal support for reauthorizing these very important programs and at long last bicameral, bipartisan agreement on the best way to go about doing that.

Of course, there are certainly ways that this bill could be strengthened and improved, and I am confident that it will be as

it makes its way through this Committee, through the Small Business Committee and to the House Floor.

But I would urge against us spending months more and even years more tinkering around the edges, allowing the perfect to be the enemy of the good and continuing to let these important programs languish. The time has come to get this good bill over the finish line.

This bill incorporates the key priorities that were included in the previous House bill. It allows venture capital-backed small businesses to once again apply for awards and specifically defines their eligibility requirements. It increases award sizes for phase I and phase II awards. It provides more flexibility to the program to ensure that it continues to meet the ever-changing needs of the high-tech sector. It ensures better data collection, allowing for improved oversight and evaluation. It streamlines paperwork requirements and reduces bureaucratic red tape, things that all of us support, and it expands commercialization efforts to help ensure that the taxpayers get the biggest bang for their buck.

Thank you, Chairman Quayle, for working with me on this bill. It has been a pleasure working with you, and I commend you for your leadership for this good piece of legislation, and I also want to thank the chairman of the Full Committee, Mr. Hall, for his good work on this legislation as well as Ranking Member Eddie Bernice Johnson for her work on this legislation.

Thank you, Mr. Chairman.

[The statement of Mr. Wu follows:]

PREPARED STATEMENT OF RANKING MEMBER WU

Thank you, Chairman Quayle. And thank you for holding this subcommittee markup today.

I could not be more pleased that we are meeting today to mark up the Creating Jobs Though Small Business Innovation Act of 2011, which will reauthorize the SBIR and STTR programs. I am also pleased to join you as an original sponsor of the bill.

Small businesses are arguably the most important component of our innovation-based economy. Countless new technologies—which have transformed the way that we live and work—were born and bred in small businesses throughout this country. And small businesses are critical to economic growth in this country and our ability to create new jobs. In fact, according to the Small Business Administration, small businesses have generated 64 percent of the net new jobs over the last 15 years.

The SBIR and STTR programs are the largest source of federal support for technological innovation in the private sector. These programs are instrumental in spurring innovation by small businesses in this country and helping them to create jobs.

As our hearing last month also highlighted, small businesses also fill a critical role in meeting federal technology needs, particularly in the national security sector. The SBIR and STTR programs tap into the unique capabilities of small businesses to develop cost-effective technological solutions quickly and efficiently.

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The message is clear. After more than 3 years of working on a comprehensive reauthorization bill, we have finally reached a place where there is nearly universal support for reauthorizing these important programs and - at long last - bicameral, bipartisan agreement on the best way to go about doing that.

Of course, there are certainly ways that this bill could be strengthened and improved and I am confident that it will be as it makes its way through this Committee, through the Small Business Committee, and to the House floor.

But I would urge against us spending months more—and even years more—tinkering around the edges, allowing the perfect to be the enemy of the good and con-

tinuing to let these important programs languish. The time has come to get this good bill over the finish line.

The bill incorporates the key priorities that were included in the previous House bill:

•It allows venture capital-backed small businesses to once again apply for awards and specifically defines their eligibility requirements;

•It increases award sizes for Phase I and Phase II awards;

•It provides more flexibility to the program to ensure that it continues to meet the ever-changing needs of the high-tech sector;

•It ensures better data collection, allowing for improved oversight and evaluation;

•It streamlines paperwork requirements and reduces bureaucratic red tape, things that all of us support; and

•It expands commercialization efforts to help ensure that the taxpayers get the biggest bang for their buck.

Thank you, Chairman Quayle, for working with me on this bill. It has been a pleasure working with you and I commend you for this good piece of bipartisan legislation.

Chairman QUAYLE. Thank you, Mr. Wu.

Without objection, all Member opening statements will be placed into the record at this point.

We will now proceed with the markup. Without objection, 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 the order of the roster. So ordered.

Chairman QUAYLE. Are there any amendments to the bill?

Mr. WU. Mr. Chairman, I have an amendment at the desk.

Chairman QUAYLE. The first amendment is offered by the gentleman from Oregon. Are you ready to proceed with your amendment?

Mr. WU. Yes, I am.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 006, amendment to H.R. 1425, offered by Mr. Wu of Oregon.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The gentleman is recognized for 5 minutes to explain the amendment.

Mr. WU. Thank you very much, Mr. Chairman.

The last comprehensive reauthorization for the SBIR program expired in September of 2008. The current legislation authorizes a reauthorization period of 5 years, and—I am sorry—reauthorizes the legislation for 2 years, and this amendment reauthorizes the bill for a total of 5 years. I believe that those who are applying for SBIR grants would appreciate some stability in the program for a longer period of time and also the longer period of time permits the National Research Council evaluation program to be completed in the 4-year period after enactment. Providing for a 5-year reauthorization will allow us to take that evaluation into consideration before we begin the reauthorization for the next cycle.

I recognize that this legislation makes significant changes and there is nothing preventing us from revisiting these issues in the interim. We do not need an expired reauthorization to legislate, and I believe that the reauthorization is really quite short. The Senate started with a much longer reauthorization period, and I do believe that ultimately we will settle on an appropriate period somewhere in the 5-, 6- or 7-year range, and I believe that moving toward that number will be a significant sign to the other chamber

that we are ready to meet them close to halfway so that we can expedite the process of moving this legislation through conference and to legislation that can pass both chambers and that the President can sign, and

I do urge adoption of this amendment.

Chairman QUAYLE. I thank the ranking member for his amendment and appreciate his desire to provide a longer authorization for the program. However, I believe that the 3-year authorization currently provided in H.R. 1425 is appropriate.

The bill before us makes significant changes to the programs including provisions modifying the participation of companies backed by venture capital, awards sizes and data collection. Additionally, during the time of the authorization, the National Research Council and Government Accountability Office are scheduled to complete a number of ongoing studies which will help inform the next reauthorization measure. I believe it is Congress's responsibility to take another look at this program after 3 years, and that 5 years is too long of a time for it to continue without Congress considering adjustments. Additionally, I am hopeful that our economic situation will be improved in 3 years' time and that also may inform updates to the programs that are prudent prior to 2016.

For these reasons, I must oppose the ranking member's amendment.

Mr. WU. If the chairman would yield just for a very brief comment?

Chairman QUAYLE. I yield.

Mr. WU. Thank you very much, Mr. Chairman. I just want to point out again that the NRC study will take 4 years to be completed, and I do believe that taking the results of that study into account will be important to our further consideration of a reauthorization.

I yield back to the chairman.

Chairman QUAYLE. Duly noted, and I want to thank the member for the amendment.

Is there further discussion on the amendment? If no, the vote occurs on the amendment. All those in favor—

Mr. WU. Whoa, whoa—I am sorry. Go ahead.

Chairman QUAYLE. All in favor, say aye. Those opposed, say no. The nays have it and the amendment is not agreed to.

Mr. WU. Mr. Chairman, I just want to note that given the number of folks who are here today, I am not going to call for a recorded vote today. I can also count in the Full Committee, but I just want to let the Chairman know that I am likely to offer this amendment and call for a vote at the Full Committee.

Chairman QUAYLE. Thank you, Mr. Wu.

Mr. WU. Thank you.

Chairman QUAYLE. Are there any other amendments to the bill?

Mr. LIPINSKI. Mr. Chairman.

Chairman QUAYLE. For what purpose does the gentleman seek recognition?

Mr. LIPINSKI. I have an amendment at the desk.

Chairman QUAYLE. The next amendment is offered by the gentleman from Illinois, Mr. Lipinski. Are you ready to proceed with your amendment?

Mr. LIPINSKI. Yes, I am.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 015, amendment to H.R. 1425 offered by Mr. Lipinski of Illinois.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. Lipinski is now recognized for 5 minutes to discuss his amendment.

Mr. LIPINSKI. Thank you, Chairman Quayle. I would like to thank you and Ranking Member Wu for your work in conjunction with Chairman Hall and Ranking Member Johnson to quickly move this critical bill forward.

I have been a strong supporter of the SBIR and STTR programs since I have been in Congress and I am excited at the prospect of doing away with temporary extensions and finally reauthorizing these programs and that is why I am proud to be a cosponsor of this bill.

Since its inception in 1982, the SBIR program has created jobs by making sure our Nation's small businesses help the federal research agencies accomplish their missions. But in spite of these programs, American innovations don't always translate into American jobs. Too many of our breakthroughs ultimately turn into products manufactured abroad in countries like Japan and China. My amendment would help reverse this trend and create American manufacturing jobs.

The bill before us makes permanent the successful commercialization pilot program at the Department of Defense and authorizes other agencies to follow DOD's lead by establishing commercialization pilot programs of their own. My amendment would improve the bill by requiring civilian agencies when making awards in the pilot program to consider whether a technology is likely to be manufactured in the United States. This will help make sure that the taxpayer dollars we invest in R&D ultimately produce American jobs.

I urge my colleagues to support this amendment. I think this is a commonsense approach. We should be focusing not just on job creation; we should be focusing on American job creation. There is so much that has been done, so much research that has been done, so much technology that has been developed here in the United States. It is important that we do everything we can to make the next step and help ensure that these jobs are done in America, the jobs that come out of this technology.

So I urge my colleagues to support this amendment, and I yield back the balance of my time.

Chairman QUAYLE. Thank you, Mr. Lipinski.

I have some reservations about the ability of an agency to measure the likelihood of whether the technology supported by the commercialization pilot program would be manufactured in the United States. That being said, I agree with the gentleman from Illinois that the SBIR and STTR programs should be promoting job growth within the United States, and I support the amendment. I want to thank you for the amendment.

Is there any further discussion on the amendment?

Mr. WU. Mr. Chairman.

Chairman QUAYLE. The gentleman from Oregon.

Mr. WU. I thank the chairman and I thank the gentleman from Illinois for this good amendment. I do believe that a very important goal of this legislation is to create jobs in the United States and I think that this amendment will move in that direction, and I thank the gentleman and yield back.

Chairman QUAYLE. Thank you. The chair recognizes Mrs. Biggert.

Mrs. BIGGERT. Thank you, Mr. Chairman. I just have a question of the sponsor.

In looking at this, I understand that you want to have the manufacturing done in the United States, but what does it mean to consider? What happens if it is not? And in many case where we have a product, you know, it is where we bring in parts from other countries to put into the product. How does that work? Is there a penalty if you don't have everything made in the United States?

Mr. LIPINSKI. Would the gentlelady yield?

Mrs. BIGGERT. I yield to the gentleman.

Mr. LIPINSKI. No, that is an important point. There is no way to guarantee that it is going to be made in the United States. This is just saying when the award is made that consideration has to be given to the expectation of whether this will be made in the United States, but there is nothing whatsoever in here that says there is a penalty if it is not made in the United States. We cannot be certain of that. No one who is judging the submission for an award would be able to know for sure, and there is no way to go back and—

Mrs. BIGGERT. Reclaiming my time. Does it mean then that maybe an award would be made to someone who is going to manufacture in the United States over someone else who is going to use other products from foreign countries? Will that be a priority?

Mr. LIPINSKI. Well, the intention is to make a priority the awards going to someone someplace that is expected to—there is a greater expectation that it will create jobs in the United States rather than jobs elsewhere. So yes, the purpose of it is to help create American jobs but there are no guarantees and there is not a way in this amendment to penalize, but I certainly think that we should be doing what we can—these are federal dollars. We should be doing what we can to encourage and do the best that we can to be creating American jobs from this.

Mrs. BIGGERT. Reclaiming my time. Then do you think that sometimes we will give awards to someone who probably doesn't have as good a product as somebody else who is using some foreign companies?

Mr. WU. Will the gentlelady yield?

Mrs. BIGGERT. Yes.

Mr. WU. Let me give the gentlelady a potential example of how this might work, how this might work. A study was done at Carnegie Mellon University, I believe the underlying technology was optical chips, and what the principal investigator found was that the folks with really cutting-edge technology had an option of manufacturing those chips either in the United States close to the source of the research or they could try to manufacture in China, and actually found that the manufacturing of these chips in China

was not only unsuccessful but was deleterious to the domestic prior generation optical chip technology here in the United States. I don't know if I made myself clear, but that is perhaps the simplest way to describe what she found, what this professor found.

In that instance, there were several competing companies to manufacture this cutting-edge optical chip technology, and under those conditions, I think that, again, hypothetically, if they had applied for SBIR funding, that there might be an inclination to make awards to those companies which were inclined to do their manufacturing in the United States, and I think that is appropriate not only to create American jobs but also to keep that very important industry in the United States.

Granted, this is hypothetical but this is a research paper which is in the literature and which we can invite her to come talk to the Science Committee at any time, but I think it is a very important example of keeping jobs and technology, cutting-edge technology, and very important jobs here in the United States, and I yield back to the gentlelady.

Mrs. BIGGERT. Thank you. Reclaiming my time. And I thank both gentlemen. I just wanted to make sure when we go back and look at the legislative intent that it is not black and white saying that you have to go to those that are manufactured in the United States. Of course we want to have that but I think sometimes there is a product that we might want to have developed, and I yield back.

Chairman QUAYLE. Is there further discussion on the amendment? If no, the vote occurs on the amendment. All those in favor, say aye. Those opposed, say "no." The ayes have it and the amendment is agreed to.

I now recognize myself to offer the next amendment. I have an amendment at the desk, amendment number 007. The clerk will report the amendment.

The CLERK. Amendment number 007, amendment to H.R. 1425 offered by Mr. Quayle of Arizona.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

I recognize myself for 5 minutes to explain the amendment.

The bill before us today strives to shorten the length of time it takes for an agency to makes final decisions on SBIR or STTR awards. For many small businesses, waiting months on end to determine if they will receive an award makes budgeting and prioritization difficult. The bill sets new requirements for agencies to make a final decision within 90 days after a solicitation is closed. While I support the goal of section 206 to assist small businesses anxious to find out the fate of their proposal, I also recognize the rigorous peer review that some agencies subject these proposals to and respect that this process may take longer than the 90 days provided by the new shortened period for final decisions on proposals.

My amendment would permit agencies that typically require a period longer than 90 days to complete their internal peer-review requirements, in this case, the National Institutes of Health and the National Science Foundation, to maintain these systems. The amendment would allow them to exceed the 90 days' limitations be-

cause I believe it is most important to have a complete and rigorous review of each application. For these agencies to comply with the 90-day timeline, they would have to overhaul their peer-review process. I believe diluting the NIH and NSF peer-review processes would call into question the quality of awards in the SBIR and STTR programs as compared to the other programs these agencies support through their extramural research budgets. In order to avoid this unintended consequence, my amendment would maintain current peer-review processes for SBIR and STTR awards at NIH and NSF.

Is there any further discussion on the amendment? Yes, the chair recognizes Mr. Wu.

Mr. WU. Thank you very much, Mr. Chairman, and I believe that your amendment is a very, very good amendment. As I was reviewing the legislation as it came back in its draft form in this Congress, I became very concerned about the requirement, a hard-edge requirement that this process move forward within 90 days. I certainly believe in shortening up the cycle time. We have heard that from awardees and especially applicants repeatedly, so I am not standing up for foot dragging, and we do need to speed up the process. However, every single agency has made it clear that they make awards on a merit basis, and I don't think that the legislation should force that process forward any faster than the agencies think that they can do it, and I have a very deep concern about the other agencies other than the ones that are already listed in here and also NIH and NSF. So I hope that as we move this legislation forward from this Subcommittee to the Full Committee and especially in that part of the process because I think we will have more opportunity to change this requirement in the Science Committee, I hope that we will further review how hard edge this 90-day requirement is and if it is appropriate to permit adjustment of that period, either in the legislation or in the regulations that the agencies work under, and I want to commend the chairman for what I believe to be a very good amendment here, and I yield back.

Chairman QUAYLE. Thank you, Mr. Wu.

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

Are there any other amendments to the bill?

Ms. WILSON. Mr. Chairman, I have an amendment at the desk.

Chairman QUAYLE. The next amendment is offered by the gentlelady from Florida, Ms. Wilson. Are you ready to proceed with your amendment?

Ms. WILSON. Yes, I am.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 006, amendment to H.R. 1425, offered by Ms. Wilson of Florida.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The gentlelady is recognized for 5 minutes to explain the amendment.

Ms. WILSON. Thank you, Chairman Quayle.

Today I am offering a simple amendment. I am offering an amendment that was non-controversial in the last Congress when

it was included in the bipartisan authorization of the Small Business Innovation and Research and Small Business Technology Transfer programs that passed out of the Full Committee by a voice vote and then passed the House by an overwhelming margin of 386 to 41.

My amendment authorizes $10 million for fiscal years 2012 to 2014 for an outreach program at the Small Business Administration to attract small businesses owned and controlled by women and mathematics into the SBIR and the STTR programs. It is 8 pages of identical text word for word other than last year's authorized that was included in last year's House Resolution 2965.

One of the stated objectives of the SBIR program is to foster the participation of women- and minority-owned businesses in technological innovation. Unfortunately, a 2008 assessment of the program by the National Research Council showed that federal agencies involved in the SBIR have not been successful in meeting this goal. One example is the National Science Foundation, which the number of women-owned businesses receiving awards has remained flat. The results when analyzing minority-owned firms receiving SBIR funds is even more troubling. Awards have stagnated across every agency, and at the Department of Defense, the number actually declined substantially over time, falling under 10 percent in 2004 and getting progressively worse every year.

My amendment addresses those concerns. It helps the Small Business Innovative Research program in meeting its objective. Furthermore, it also calls on federal agencies to reach out to small businesses from geographic areas that have historically not been involved in the program as well as those from areas that are suffering from high unemployment rates. It also provides for outreach to those businesses that are owned and controlled by service disabled veterans who are disabled while serving. Our veterans need our support, especially those that are disabled.

Small businesses serve a vital role in our economy. They are innovative and more often than that the principal source of new jobs. You never know where the next big new idea will come from, and we must do all that we can to support the innovative potential of all of our small businesses.

I urge you to support this amendment. I thank you, Mr. Chair.

Chairman QUAYLE. Thank you, Ms. Wilson. The chair agrees with the gentlelady from Florida that we should encourage broad participation in the SBIR and STTR programs. However, I believe it is an inappropriate time to authorize a $10 million expenditure for the grant program created by this amendment.

One of the strengths of H.R. 1425 is that it is revenue neutral. Funding for the SBIR and STTR programs come from a set-aside of preexisting agency research and development budgets. By authorizing this program, the Committee would be adding cost to this bill. Given our current budget situation, we feel it is extremely important to prevent growth in government expenditures. My understanding is that the gentleman from New Mexico, Mr. Lujan, will be offering an amendment which also encourages greater participation by underrepresented businesses without adding to the overall cost of the bill. I will be supporting that amendment. However, I

recommend opposing the amendment we are currently considering, and I urge my colleagues to oppose it as well.

Is there any further discussion on that amendment?

Mr. WU. Mr. Chairman.

Chairman QUAYLE. The chair recognizes Mr. Wu.

Mr. WU. Thank you, Mr. Chairman, and I urge adoption of this very sound amendment.

It is a very important goal of the SBIR program in the underlying statute to foster participation by a broader range of applicants because you don't know where the next great idea will be coming from, and the National Research Council in its study and recommendations found that the agencies participating in SBIR should take additional steps to increase the rates of women- and minority-owned firms and specifically recommended additional outreach efforts to achieve this goal.

So I recommend adoption of the gentlelady's amendment and yield back, Mr. Chairman.

Chairman QUAYLE. Is there further discussion on this amendment?

Ms. WILSON. If the chair will yield for a brief comment?

Chairman QUAYLE. Yes, the chair yields.

Ms. WILSON. Mr. Chair, I come from a district where this amendment would help create so many jobs. The $10 million would be miniscule within a year. I intend to also propose this amendment with the Full Committee, and I am hoping that by that time we will be sensitive to this population that we are trying to deal with to expand the opportunities.

We talk about jobs, jobs, jobs. We came to Washington to create jobs. This is the way we create jobs. This is how we reduce the deficit, by creating jobs. I ask that you support the amendment when it comes up again since there is some reticence now. Thank you.

Chairman QUAYLE. I thank you, Ms. Wilson. I do want to point out that this is $10 million a year, so it is $30 million, and I do support what I believe Mr. Lujan will be providing in an amendment, which is a revenue-neutral bill that will actually do the same thing without actually increasing our cost, so that is why I support that and not this because I think it will be much more efficient to get this through the House when you have a revenue-neutral bill like it is right now.

Mr. WU. Mr. Chairman, whoever is controlling the time, if someone could yield me just a couple seconds here?

Chairman QUAYLE. The chair recognizes Mr. Wu for a couple seconds.

Mr. WU. Thank you very much, Mr. Chairman. Perhaps the gentlelady from Florida could work with the chairman and the chairman of the Full Committee so that between now and the Full Committee markup, her amendment could be restructured in a way so that it is revenue-neutral, and I realize that the gentlelady might prefer to go a different way but this is a very important objective and I believe that what the chairman may be indicating that if this amendment could be structured in a revenue-neutral way that it would receive very serious attention at the Full Committee level.

Chairman QUAYLE. I don't know if I am saying that. I do think that what Mr. Lujan is proposing to offer is probably the best way to go about it to try to get underrepresented businesses involved in the SBIR program.

Is there further discussion on the amendment?

Mr. LUJAN. Mr. Chairman.

Chairman QUAYLE. Yes, the chair recognizes Mr. Lujan.

Mr. LUJAN. Mr. Chairman, while I fully appreciate what sounds like support for amendment 014, any time that we can have a conversation about allocating resources to be able to further reach out to minority-owned businesses, veteran-owned businesses, women-owned businesses, I think that is something that is worth having a serious conversation about and truly seeing how we may be able to work with Ms. Wilson by the time that we get to Full Committee. I do support her amendment as well, but just seeing what we might be able to further that along. I appreciate that. Thank you, Mr. Chairman.

Chairman QUAYLE. Thank you. If no further discussion on the amendment, the vote occurs. All in favor, say aye. Those opposed, say no. The nays have it and the amendment is not agreed to.

Ms. WILSON. I would like to have a recorded vote.

Chairman QUAYLE. The clerk will call the roll.

The CLERK. Chairman Quayle?

Chairman QUAYLE. No.

The CLERK. Chairman Quayle votes no.

Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.

Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Neugebauer?

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.

Mr. McCaul?

Mr. MCCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Fleischmann?

[No response.]

The CLERK. Mr. Rigell?

Mr. RIGELL. No.

The CLERK. Mr. Rigell notes no.

Mr. Hultgren?

Mr. HULTGREN. No.

The CLERK. Mr. Hultgren votes no.

Mr. Cravaack?

Mr. CRAVAACK. No.

The CLERK. Mr. Cravaack votes no.

Mr. Hall?

[No response.]

The CLERK. Mr. Wu?

Mr. WU. Yes.

The CLERK. Mr. Wu votes aye.

Mr. Sarbanes?

[No response.]

The CLERK. Ms. Wilson?

Ms. WILSON. Aye.

The CLERK. Ms. Wilson votes aye.

Mr. Lipinski?

Mr. LIPINSKI. Aye.

The CLERK. Mr. Lipinski votes aye.

Ms. Giffords?

[No response.]

The CLERK. Mr. Lujan?

Mr. LUJAN. Aye.

The CLERK. Mr. Lujan votes aye.

Ms. Johnson?

[No response.]

Chairman QUAYLE. Are there other members who wish to vote?

The CLERK. Mr. Hall is not recorded.

Chairman QUAYLE. The chair recognizes Mr. Hall.

Chairman HALL. No.

The CLERK. Mr. Hall votes aye—Mr. Hall votes no. Mr. Hall votes no.

Chairman QUAYLE. Are there members who wish to change their vote? The clerk shall report the vote.

The CLERK. Mr. Chairman, four members vote aye and nine members vote no.

Chairman QUAYLE. On this vote, there were four ayes and nine no's. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th
Subcommittee on Technology and Innovation

DATE: 4/13/11 **AMENDMENT NO. 4** **ROLL CALL NO.__1___**

Bill: H.R.1425
The Creating Jobs Through Small Business Innovation Act of 2011.

SPONSOR of AMEND: Ms. Wilson

DEFEATED by a vote of 4-9

Quorum –6 to vote –9 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. QUAYLE, *Chair* - *AZ*		x		
2 Mr. SMITH - *TX*		x		
3 Mrs. BIGGERT - *IL*		x		
4 Mr. NEUGEBAUER - *TX*		x		
5 Mr. McCAUL - *TX*		x		
6 Mr. FLEISCHMANN - *TN*				
7 Mr. RIGELL - *VA*		x		
8 Mr. HULTGREN - *IL*		x		
9 Mr. CRAVAACK - *MN*		x		
10 Mr. HALL, *ex officio* - *TX*		x		
1 Mr. WU, *Ranking* - *OR*	x			
2 Mr. SARBANES - *MD*				
3 Ms. WILSON - *FL*	x			
4 Mr. LIPINSKI - *IL*	x			
5 Ms. GIFFORDS - *AZ*				
6 Mr. LUJÁN - *NM*	x			
7 Ms. JOHNSON, *ex officio* - *TX*				
TOTALS	4	9		

Are there any other amendments to the bill?

Mr. LIPINSKI. Mr. Chairman.

Chairman QUAYLE. For what purpose does the gentleman seek recognition?

Mr. LIPINSKI. I have an amendment at the desk.

Chairman QUAYLE. The next amendment is offered by the gentleman from Illinois, Mr. Lipinski. Are you ready to proceed with your amendment?

Mr. LIPINSKI. Yes, I am, Mr. Chairman.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 016, amendment to H.R. 1425, offered by Mr. Lipinski of Illinois.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The chair now recognizes Mr. Lipinski to discuss his amendment.

Mr. LIPINSKI. Thank you, Chairman Quayle. I will be very quick.

Section 307 of this bill already authorizes the National Academy of Sciences to continue evaluating the SBIR and STTR programs. Among other things, this study will look at the number of jobs created by these programs. My amendment is very simple. It adds after the words "number of jobs created," it adds "in the United States" making clear that Congress wants the academies to look at the creation of American jobs. While I would hope they would do this anyway, my clarification would make sure that Congress gets the information we need out of the study.

I urge my colleagues to support the amendment and yield back the balance of my time.

Chairman QUAYLE. Thank you, Mr. Lipinski. The chair agrees with the gentleman from Illinois that this is important for the National Academies to estimate the number of jobs created in the United States. I thank the gentleman for his recommendation and I support this amendment.

Is there further discussion on the amendment?

Mr. WU. Mr. Chairman.

Chairman QUAYLE. The chair recognizes Mr. Wu.

Mr. WU. I urge adoption of the amendment, and yield back the balance of my time.

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

Are there any other amendments to the bill?

Mr. LUJAN. Mr. Chairman.

Chairman QUAYLE. For what purpose does the gentleman seek recognition?

Mr. LUJAN. I have an amendment at the desk.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 015, amendment to H.R. 1425, offered by Mr. Lujan of New Mexico.

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The gentleman is recognized for 5 minutes to explain his amendment.

Mr. LUJAN. Thank you, Mr. Chairman.

This amendment would authorize a review of the STTR program, the Small Business Technology Transfer program, by the National Research Council similar to the study that they did for the SBIR program. Such a review is long overdue. The most recent examination of the STTR program was a 2001 GAO report which was used from a 2001 reauthorization of the program. However, this report was based off of one or two phase II projects from 1995 to 1997, the first 3 years that such awards were made. So the past 14 years of STTR awards experience is left unexamined and unreviewed.

Under this amendment, the initial study, which is to be submitted to Congress 2 years after enactment, will evaluate the partnerships created between small businesses and research institu-

tions, the effectiveness of the programs of transfering technology and capabilities from research institutions to small businesses, the degree of success at commercializing technologies developed in the program compared to similar technology transfer programs and the economic benefits achieved by the program. The study will also provide recommendations on the effects that an increase or decrease in the set-aside percentage for the STTR program would have and possible improvements to the program. They would not be recommending whether there be an increase or decrease, just what they believe the effects would be.

It is imperative that a study of this program be performed as part of our constitutional oversight responsibilities, so I urge adoption of this amendment. I yield back.

Chairman QUAYLE. I thank the gentleman from New Mexico for his interest in evaluating the STTR program. I agree that we need to learn more about the effectiveness of the STTR program in promoting technology transfer. I also agree that it is important to evaluate the effectiveness of the partnerships created between small businesses and research institutions including our Nation's colleges and universities.

While I support greater evaluation of this program, I am concerned about the effects of commissioning the NRC to conduct an entirely separate study when the bill already provides for continued regular evaluations of the largest programs across the Federal Government. In the time that we had to review the amendment, I am uncertain whether it may incur unnecessary cost and use of resources.

As you know, H.R. 1425 commissions the NRC to continue its comprehensive evaluation of the SBIR program. It also asks the NRC to evaluate some features of the STTR program. However, I agree that we need more information to effectively evaluate a program that disburses over $200 million of our tax dollars each year. My sense is that this study can be incorporated within the currently scheduled SBIR study. To that end, would the gentleman consider withdrawing his amendment, recognizing that the chair hopes that we can work together at Full Committee to include a provision requiring a comprehensive evaluation of the STTR program? And I yield to the gentleman.

Mr. LUJAN. Mr. Chairman, I would be willing to withdraw the amendment if we could work together on coming up with some language that we can agree on. Thank you.

Chairman QUAYLE. I thank the gentleman from New Mexico, and we will work together on that language.

Are there any other amendments to the bill?

Mr. LUJAN. Mr. Chairman.

Chairman QUAYLE. The gentleman from New Mexico.

Mr. LUJAN. I have an amendment at the desk.

Chairman QUAYLE. The clerk will report the amendment.

The CLERK. Amendment number 014, amendment to H.R. 1425, offered by Mr. Lujan of New Mexico.

[The amendment follows:]

Chairman QUAYLE. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

The chair now recognizes the gentleman from New Mexico for 5 minutes to discuss his amendment.

Mr. LUJAN. Thank you, Mr. Chairman.

My amendment today adds a section to the bill that would require agencies to encourage applications from small businesses located in underrepresented areas or areas with excessive unemployment rates as well as small businesses owned and controlled by veterans, women and minorities.

Now more than ever, as our country begins its recovery from the recession, we must support minority- and women-owned businesses. According to the United States Census Bureau, minority-owned businesses generate $1 trillion in economic output to the U.S. economy and create 5.9 million jobs, and these numbers are only predicted to grow. Women-owned firms represent almost 29 percent of businesses in the United States. In my home State of New Mexico, minority-owned businesses represent over 30 percent of the businesses in the state.

Mr. Chairman, the numbers prove that these businesses are an essential part of our economy and will continue to experience increased growth. Minority- and women-owned businesses have the potential to lift our most rural and underrepresented areas from poverty, and I am offering this amendment today to ensure that these important STTR and SBIR program opportunities are accessible and available to them.

As our men and women return home from serving our country, it is critical that we provide them with the best possible opportunities to succeed professionally here at home. We must reach out to our veterans and help equip them with the technical assistance they need to develop and grow their businesses. Supporting veteran-, minority- and women-owned businesses is good for our economy and good for our Nation.

And Mr. Chairman, we just learned that sadly for the first time in many years, the percentage of minority-owned firms has declined substantially in cooperation with DOD, and this is something that truly we have to figure out how to turn on again.

I encourage my colleagues to vote for the amendment today. I thank you, Mr. Chairman. I yield back my time.

Chairman QUAYLE. I thank the gentleman from New Mexico for his amendment.

The amendment would require federal agencies to encourage SBIR and STTR applications from companies which historically have been underrepresented in SBIR and STTR awards. I believe that the competitive nature of the program is maintained under this amendment and that it aligns with the overall goals of the programs, and I urge my colleagues to vote aye on the amendment.

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

Are there any other amendments to the bill? Appearing none, the vote occurs on the bill as amended. All those in favor, say aye. All those opposed, say no. The ayes have it.

I will now recognize Ms. Biggert to offer a motion.

Mrs. BIGGERT. Mr. Chairman, I move that the Subcommittee favorably report H.R. 1425 as amended to the Full Committee. Fur-

thermore, I move that staff be instructed to prepare the Subcommittee report and make necessary technical and conforming change to the bill as amended in accordance with the recommendations of the Subcommittee.

Chairman QUAYLE. The question is on the motion to report the bill favorably. Those in favor of the motion will signify by saying aye. Opposed, no. The ayes appear to have it and the resolution is favorably reported.

Without objection, the motion to reconsider is laid upon the table. I move that members have 2 subsequent calendar days in which to submit supplemental minority or additional views on the measure. Without objection, so ordered.

This concludes our Subcommittee markup. The chair declares the Subcommittee adjourned.

[Whereupon, at 10:57 a.m., the Subcommittee was adjourned.]

Appendix:

H.R. 1425, Section-by-Section Analysis, Amendment Roster

112TH CONGRESS
1ST SESSION

H. R. 1425

To reauthorize and improve the SBIR and STTR programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

Mrs. ELLMERS (for herself, Mr. ALTMIRE, Mr. QUAYLE, Mr. WU, Mr. HALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GRAVES of Missouri, and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on Science, Space, and Technology, and in addition to the Committees on Small Business and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To reauthorize and improve the SBIR and STTR programs, 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.

This Act may be cited as the "Creating Jobs Through Small Business Innovation Act of 2011".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.
Sec. 102. SBIR and STTR award levels.
Sec. 103. Agency and program flexibility.
Sec. 104. Elimination of Phase II invitations.
Sec. 105. Phase flexibility.
Sec. 106. Participation by firms with substantial investment from multiple venture capital operating companies, hedge funds, or private equity firms in a portion of the SBIR program.
Sec. 107. Ensuring that innovative small businesses with substantial investment from venture capital operating companies, hedge funds, or private equity firms are able to participate in the SBIR and STTR programs.
Sec. 108. SBIR and STTR special acquisition preference.
Sec. 109. Collaborating with Federal laboratories and research and development centers.
Sec. 110. Notice requirement.
Sec. 111. Additional SBIR and STTR Awards.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

Sec. 201. Technical assistance for awardees.
Sec. 202. Commercialization Readiness Program at Department of Defense.
Sec. 203. Commercialization Readiness Pilot Program for civilian agencies.
Sec. 204. Interagency Policy Committee.
Sec. 205. Clarifying the definition of "Phase III".
Sec. 206. Shortened period for final decisions on proposals and applications.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.
Sec. 302. Data collection from agencies for SBIR.
Sec. 303. Data collection from agencies for STTR.
Sec. 304. Public database.
Sec. 305. Government database.
Sec. 306. Accuracy in funding base calculations.
Sec. 307. Continued evaluation by the National Academy of Sciences.
Sec. 308. Technology insertion reporting requirements.
Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs.
Sec. 311. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement.
Sec. 312. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
Sec. 313. Simplified paperwork requirements.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR program goals.
Sec. 502. Competitive selection procedures for SBIR and STTR programs.
Sec. 503. Loan Restrictions.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

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

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking "2008" and inserting "2014"; and

(3) by striking paragraph (2).

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

(1) by striking "IN GENERAL.—" and all that follows through "with respect" and inserting "IN GENERAL.—With respect";

(2) by striking "2009" and inserting "2014"; and

(3) by striking clause (ii).

SEC. 102. SBIR AND STTR AWARD LEVELS.

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

(1) by striking "$100,000" and inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

(b) STTR 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 inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

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

(1) in subsection (j)(2)(D), by striking "once every 5 years to reflect economic adjustments and programmatic considerations" and inserting "every year for inflation"; and

(2) in subsection (p)(2)(B)(ix), as amended by subsection (b) of this section, by inserting "(each of which the Administrator shall adjust for inflation annually)" after "$1,000,000,".

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

"(aa) LIMITATION ON SIZE OF AWARDS.—

"(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

"(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on

awards exceeding the guidelines established under this section, including—

"(A) the amount of each award;

"(B) a justification for exceeding the award amount;

"(C) the identity and location of each award recipient; and

"(D) whether an award recipient has received any venture capital, hedge fund, or private equity firm investment and, if so, whether the recipient is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.".

SEC. 103. AGENCY AND PROGRAM FLEXIBILITY.

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

"(bb) SUBSEQUENT PHASE II AWARDS.—

"(1) AGENCY FLEXIBILITY.—A small business concern that received a Phase I award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

"(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received a Phase I award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).".

SEC. 104. ELIMINATION OF PHASE II INVITATIONS.

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

(1) in paragraph (4)(B), by striking "to further" and inserting "which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further"; and

(2) in paragraph (6)(B), by striking "to further develop proposed ideas to" and inserting "which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals that".

SEC. 105. PHASE FLEXIBILITY.

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

"(cc) PHASE I REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I 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 a Phase I award.".

SEC. 106. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN A PORTION OF THE SBIR PROGRAM.

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

"(dd) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN THE SBIR PROGRAM.—

"(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives not later than 30 days before the date on which an award is made—

"(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 45 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns

that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns; and

"(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 35 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns.

"(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

"(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

"(B) substantially contribute to the mission of the Federal agency;

"(C) demonstrate a need for public research; and

"(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

"(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and qualified for participation in the program authorized under paragraph (1) shall—

"(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

"(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(4) COMPLIANCE.—

"(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and

1 submit to the Administrator data relating to
2 the number and dollar amount of Phase I
3 awards, Phase II awards, and any other cat-
4 egory of awards by the Federal agency under
5 the SBIR program during that fiscal year.
6 "(B) ANNUAL REPORTING.—The Adminis-
7 trator shall include as part of each annual re-
8 port by the Administration under subsection
9 (b)(7) any data submitted under subparagraph
10 (A) and a discussion of the compliance of each
11 Federal agency that makes an award under this
12 subsection during the fiscal year with the max-
13 imum percentages under paragraph (1).
14 "(5) ENFORCEMENT.—If a Federal agency
15 awards more than the percent of the funds allocated
16 for the SBIR program of the Federal agency author-
17 ized under paragraph (1) for a purpose described in
18 paragraph (1), the head of the Federal agency shall
19 transfer an amount equal to the amount awarded in
20 excess of the amount authorized under paragraph
21 (1) to the funds for general SBIR programs from
22 the non-SBIR and non-STTR research and develop-
23 ment funds of the Federal agency not later than 180
24 days after the date on which the Federal agency
25 made the award that caused the total awarded under

1 paragraph (1) to be more than the amount author-
2 ized under paragraph (1) for a purpose described in
3 paragraph (1).
4 "(6) FINAL DECISIONS ON APPLICATIONS
5 UNDER THE SBIR PROGRAM.—
6 "(A) DEFINITION.—In this paragraph, the
7 term 'covered small business concern' means a
8 small business concern that—
9 "(i) was not majority-owned by mul-
10 tiple venture capital operating companies,
11 hedge funds, or private equity firms on the
12 date on which the small business concern
13 submitted an application in response to a
14 solicitation under the SBIR programs; and
15 "(ii) on the date of the award under
16 the SBIR program is majority-owned by
17 multiple venture capital operating compa-
18 nies, hedge funds, or private equity firms.
19 "(B) IN GENERAL.—If a Federal agency
20 does not make an award under a solicitation
21 under the SBIR program before the date that
22 is 9 months after the date on which the period
23 for submitting applications under the solicita-
24 tion ends—

"(i) a covered small business concern is eligible to receive the award, without regard to whether the covered small business concern meets the requirements for receiving an award under the SBIR program for a small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, if the covered small business concern meets all other requirements for such an award; and

"(ii) the head of the Federal agency shall transfer an amount equal to any amount awarded to a covered small business concern under the solicitation to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency, not later than 90 days after the date on which the Federal agency makes the award.

"(7) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital or investment from hedge funds or private equity firms as a criterion for the award of contracts under the SBIR program or STTR program.".

(b) TECHINICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term 'venture capital operating company' means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).

"(bb) HEDGE FUND.—In this Act, the term 'hedge fund' has the meaning given that term in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

"(cc) PRIVATE EQUITY FIRM.—In this Act, the term 'private equity firm' has the meaning given the term 'private equity fund' in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).".

SEC. 107. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

"(ee) VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.—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, hedge fund, or private equity firm (or with any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if—

"(A) the venture capital operating company, hedge fund, or private equity firm does not own 50 percent or more of the business concern; and

"(B) employees of the venture capital operating company, hedge fund, or private equity firm 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, hedge funds, or private equity firms;

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

"(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

"(4) If a venture capital operating company, hedge fund, or private equity firm controlled by a business with more than 500 employees (in this paragraph referred to as a 'VCOC, hedge fund, or private equity firm under large business control') has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, hedge funds, or private equity firms, the small business concern is eligible to

receive an award under the SBIR or STTR program only if—

"(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

"(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.".

SEC. 108. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

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

"(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.".

SEC. 109. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

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

"(ff) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

"(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

"(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

"(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

"(2) PROHIBITION.—No Federal agency shall—

"(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or

research and development center for any portion of the activities to be performed under that award;

"(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

"(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

"(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

"(A) have the flexibility to use the resources of the Federal laboratories and feder-

ally funded research and development centers; and

"(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.".

SEC. 110. NOTICE REQUIREMENT.

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

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency.".

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

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting "; and";

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

"(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.".

SEC. 111. ADDITIONAL SBIR AND STTR AWARDS.

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

"(gg) ADDITIONAL SBIR AND STTR AWARDS.—

"(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive one additional Phase II SBIR award or Phase II STTR award for continued work on that project.

"(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.".

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. TECHNICAL ASSISTANCE FOR AWARDEES.

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

(1) in paragraph (1)—

(A) by inserting "or STTR program" after "SBIR program"; and

(B) by striking "SBIR projects" and inserting "SBIR or STTR projects";

(2) in paragraph (2), by striking "3 years" and inserting "5 years"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting "or STTR" after "SBIR"; and

(ii) by striking "$4,000" and inserting "$5,000";

(B) by striking subparagraph (B) and inserting the following:

"(B) PHASE II.—A Federal agency described in paragraph (1) may—

"(i) provide to the recipient of a Phase II SBIR or STTR award, through a

vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

"(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award."; and

(C) by adding at the end the following:

"(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

"(D) LIMITATION.—A Federal agency may not—

"(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor

selected under paragraph (2) provides the technical assistance to the recipient; or

"(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.".

SEC. 202. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking "PILOT" and inserting "READINESS";

(2) by striking "Pilot" each place that term appears and inserting "Readiness";

(3) in paragraph (1)—

(A) by inserting "or Small Business Technology Transfer Program" after "Small Business Innovation Research Program"; and

(B) by adding at the end the following: "The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition

of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).";

(4) in paragraph (2), by inserting "or Small Business Technology Transfer Program" after "Small Business Innovation Research Program";

(5) by striking paragraphs (5) and (6); and

(6) by inserting after paragraph (4) the following:

"(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

"(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

"(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

"(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

"(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

"(B) use incentives in effect on the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

"(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting "(including awards under subsection (y))" after "the number of awards".

SEC. 203. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

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

"(hh) PILOT PROGRAM.—

"(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

"(A) for awards for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR Phase II technologies; or

"(B) to support the progress of research, research and development, and commercialization conducted under the SBIR or STTR programs to Phase III.

"(2) APPLICATION BY FEDERAL AGENCY.—

"(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established,

that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

"(B) DETERMINATION.—The Administrator shall—

"(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

"(ii) publish the determination in the Federal Register; and

"(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

"(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

"(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

"(5) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

"(6) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

"(7) DEFINITIONS.—In this subsection—

"(A) the term 'covered Federal agency'—

"(i) means a Federal agency participating in the SBIR program or the STTR program; and

"(ii) does not include the Department of Defense; and

"(B) the term 'pilot program' means the program established under paragraph (1).".

SEC. 204. INTERAGENCY POLICY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee.

(b) 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) of the Small Business Act (15 U.S.C. 638(k)).

(2) Federal agency flexibility in establishing Phase I and II award sizes, including appropriate criteria for exercising such flexibility.

(3) Commercialization assistance best practices of 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 that business concerns face after Phase II but before commercialization.

(4) Developing and incorporating 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 the SBIR program and STTR program of each Federal agency.

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

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

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

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

(4) a report on its review and recommendations under subsection (b)(4) not later than 2 years after the date of enactment of this Act.

SEC. 205. CLARIFYING THE DEFINITION OF "PHASE III".

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)), as amended by this Act, is further amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program" after "phase";

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program" after "phase";

(3) in paragraph (8), by striking "and" at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(10) the term 'commercialization' means—

"(A) the process of developing products, processes, technologies, or services; and

"(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others)

to or use by the Federal Government or commercial markets;".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (e)—

(A) in paragraph (4)(C)(ii), by striking "scientific review criteria" and inserting "merit-based selection procedures";

(B) in paragraph (9), by striking "the second or the third phase" and inserting "Phase II or Phase III"; and

(C) by adding at the end the following:

"(11) the term 'Phase I' means—

"(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

"(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

"(12) the term 'Phase II' means—

"(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

"(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

"(13) the term 'Phase III' means—

"(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

"(B) with respect to the STTR program, the third phase described in paragraph (6)(C).";

(2) in subsection (j)—

(A) in paragraph (1)(B), by striking "phase two" and inserting "Phase II";

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) by striking "the third phase" each place it appears and inserting "Phase III"; and

(II) by striking "the second phase" and inserting "Phase II";

(ii) in subparagraph (D)—

(I) by striking "the first phase" and inserting "Phase I"; and

(II) by striking "the second phase" and inserting "Phase II";

(iii) in subparagraph (F), by striking "the third phase" and inserting "Phase III";

(iv) in subparagraph (G)—

(I) by striking "the first phase" and inserting "Phase I"; and

(II) by striking "the second phase" and inserting "Phase II"; and

(v) in subparagraph (H)—

(I) by striking "the first phase" and inserting "Phase I";

(II) by striking "second phase" each place it appears and inserting "Phase II"; and

(III) by striking "third phase" and inserting "Phase III"; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "the first phase (as described in subsection (e)(4)(A))" and inserting "Phase I";

(II) by striking "the second phase (as described in subsection (e)(4)(B))" and inserting "Phase II"; and

(III) by striking "the third phase (as described in subsection (e)(4)(C))" and inserting "Phase III"; and

(ii) in subparagraph (B), by striking "second phase" and inserting "Phase II";

(3) in subsection (k)—

(A) by striking "first phase" each place it appears and inserting "Phase I"; and

(B) by striking "second phase" each place it appears and inserting "Phase II";

(4) in subsection (l)(2)—

(A) by striking "the first phase" and inserting "Phase I"; and

(B) by striking "the second phase" and inserting "Phase II";

(5) in subsection (o)(13)—

(A) in subparagraph (B), by striking "second phase" and inserting "Phase II"; and

(B) in subparagraph (C), by striking "third phase" and inserting "Phase III";

(6) in subsection (p)—

(A) in paragraph (2)(B)—

(i) in clause (vi)—

(I) by striking "the second phase" and inserting "Phase II"; and

(II) by striking "the third phase" and inserting "Phase III"; and

(ii) in clause (ix)—

(I) by striking "the first phase" and inserting "Phase I"; and

(II) by striking "the second phase" and inserting "Phase II"; and

(B) in paragraph (3)—

(i) by striking "the first phase (as described in subsection (e)(6)(A))" and inserting "Phase I";

(ii) by striking "the second phase (as described in subsection (e)(6)(B))" and inserting "Phase II"; and

(iii) by striking "the third phase (as described in subsection (e)(6)(C))" and inserting "Phase III";

(7) in subsection (q)(3)(A)—

(A) in the subparagraph heading, by striking "FIRST PHASE" and inserting "PHASE I"; and

(B) by striking "first phase" and inserting "Phase I";

(8) in subsection (r)—

(A) in the subsection heading, by striking "THIRD PHASE" and inserting "PHASE III";

(B) in paragraph (1)—

(i) in the first sentence—

(I) by striking "for the second phase" and inserting "for Phase II";

(II) by striking "third phase" and inserting "Phase III"; and

(III) by striking "second phase period" and inserting "Phase II period"; and

(ii) in the second sentence—

(I) by striking "second phase" and inserting "Phase II"; and

(II) by striking "third phase" and inserting "Phase III"; and

(C) in paragraph (2), by striking "third phase" and inserting "Phase III"; and

(9) in subsection (u)(2)(B), by striking "the first phase" and inserting "Phase I".

SEC. 206. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (g)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the SBIR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;"; and

(2) in subsection (o)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the STTR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180

1 days after the date on which the solicitation
2 closes;".
3 (b) NIH PEER REVIEW PROCESS.—
4 (1) IN GENERAL.—Section 9 of the Small Busi-
5 ness Act (15 U.S.C. 638), as amended by this Act,
6 is further amended by adding at the end the fol-
7 lowing:
8 "(ii) NIH PEER REVIEW PROCESS.—The Director of
9 the National Institutes of Health may make an award
10 under the SBIR program or the STTR program of the
11 National Institutes of Health only if the application for
12 the award has undergone technical and scientific peer re-
13 view under section 492 of the Public Health Service Act
14 (42 U.S.C. 289a).".
15 (2) TECHNICAL AND CONFORMING AMEND-
16 MENTS.—Section 105 of the National Institutes of
17 Health Reform Act of 2006 (42 U.S.C. 284n) is
18 amended—
19 (A) in subsection (a)(3)—
20 (i) by striking "A grant" and insert-
21 ing "Except as provided in section 9(ii) of
22 the Small Business Act (15 U.S.C.
23 638(ii)), a grant"; and

(ii) by striking "section 402(k)" and all that follows through "Act)" and inserting "section 402(l) of such Act"; and

(B) in subsection (b)(5)—

(i) by striking "A grant" and inserting "Except as provided in section 9(ii) of the Small Business Act (15 U.S.C. 638(ii)), a grant"; and

(ii) by striking "section 402(k)" and all that follows through "Act)" and inserting "section 402(l) of such Act".

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

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

(1) in paragraph (7)—

(A) by striking "STTR programs, including the data" and inserting the following: "STTR programs, including—

"(A) the data";

(B) by striking "(g)(10), (o)(9), and (o)(15), the number" and all that follows through "under each of the SBIR and STTR

1 programs, and a description'' and inserting the
2 following: ''(g)(8) and (o)(9); and
3 ''(B) the number of proposals received
4 from, and the number and total amount of
5 awards to, HUBZone small business concerns
6 and firms with venture capital, hedge fund, or
7 private equity firm investment (including those
8 majority-owned by multiple venture capital op-
9 erating companies, hedge funds, or private eq-
10 uity firms) under each of the SBIR and STTR
11 programs;
12 ''(C) a description of the extent to which
13 each Federal agency is increasing outreach and
14 awards to firms owned and controlled by women
15 and social or economically disadvantaged indi-
16 viduals under each of the SBIR and STTR pro-
17 grams;
18 ''(D) general information about the imple-
19 mentation of, and compliance with the alloca-
20 tion of funds required under, subsection (dd)
21 for firms owned in majority part by venture
22 capital operating companies, hedge funds, or
23 private equity firms and participating in the
24 SBIR program;

"(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

"(F) a description"; and

(C) by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data.".

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

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

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(3) by inserting after paragraph (7) the following:

"(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an awardee—

"(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment that the awardee has received as of the date of the award; and

"(II) the amount of additional capital that the awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United

States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vi) is located in a State described in subsection (u)(3); and

"(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;".

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by this Act, is further amended by striking paragraph (9) and inserting the following:

"(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an applicant or awardee—

"(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment that the applicant or awardee has received as of the date of the application or award, as applicable; and

"(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vi) is located in a State in which the total value of contracts awarded to small business concerns under all STTR pro-

grams is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

"(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;".

SEC. 304. PUBLIC DATABASE.

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

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

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

"(i) has venture capital, hedge fund, or private equity firm investment and, if

so, whether the small business concern is registered as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms as required under subsection (dd)(3);

"(ii) is owned by a woman or has a woman as a principal investigator;

"(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; or

"(iv) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

SEC. 305. GOVERNMENT DATABASE.

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

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "Not later" and all that follows through "Act of 2000" and inserting "Not later than 90 days after the date of enactment of the

1 Creating Jobs Through Small Business Innova-
2 tion Act of 2011";
3 (B) by striking subparagraph (C);
4 (C) by redesignating subparagraphs (A)
5 and (B) as subparagraphs (B) and (C), respec-
6 tively;
7 (D) by inserting before subparagraph (B),
8 as so redesignated, the following:
9 "(A) contains, for each small business con-
10 cern that applies for, submits a proposal for, or
11 receives an award under Phase I or Phase II of
12 the SBIR program or the STTR program—
13 "(i) the name, size, and location, and
14 an identifying number assigned by the Ad-
15 ministration of the small business concern;
16 "(ii) an abstract of the project;
17 "(iii) the specific aims of the project;
18 "(iv) the number of employees of the
19 small business concern;
20 "(v) the names of key individuals that
21 will carry out the project;
22 "(vi) the percentage of effort each in-
23 dividual described in clause (iv) will con-
24 tribute to the project;

"(vii) whether the small business concern is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

"(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;";

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

"(D) includes, for each awardee—

"(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

"(ii) whether the awardee has venture capital, hedge fund, or private equity firm investment, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm

1 investment as of the date of the
2 award;
3 "(II) the percentage of ownership
4 of the awardee held by a venture cap-
5 ital operating company, hedge fund,
6 or private equity firm, including
7 whether the awardee is majority-
8 owned by multiple venture capital op-
9 erating companies, hedge funds, or
10 private equity firms; and
11 "(III) the amount of additional
12 capital that the awardee has invested
13 in the SBIR technology, which infor-
14 mation shall be collected on an annual
15 basis;
16 "(iii) the names and locations of any
17 affiliates of the awardee;
18 "(iv) the number of employees of the
19 awardee;
20 "(v) the number of employees of the
21 affiliates of the awardee; and
22 "(vi) the names of, and the percent-
23 age of ownership of the awardee held by—
24 "(I) any individual who is not a
25 citizen of the United States or a law-

ful permanent resident of the United States; or

"(II) any person that is not an individual and is not organized under the laws of a State or the United States;";

(G) in subparagraph (E), as so redesignated, by striking "and" at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting "; and"; and

(I) by adding at the end the following:

"(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has committed fraud, waste, or abuse relating to the SBIR program or STTR program."; and

(2) in paragraph (3), by adding at the end the following:

"(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program,

the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.''.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 5 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration; and

(C) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraph (B), and the determination made under subparagraph (C) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) for the first report submitted under this section, the period beginning on October 1, 2005, and ending on September 30 of the last full fiscal

year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

"(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years

after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter—

"(A) continue the most recent study under this section relating to—

"(i) the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1); and

"(ii) the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

"(B) make recommendations with respect to the issues described in subparagraph (A)(ii) and subparagraphs (A), (D), and (E) of subsection (a)(2); and

"(C) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

"(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

"(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).".

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

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

"(jj) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

"(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

"(2) the name of the small business concern or individual receiving the Phase III award; and

"(3) the dollar amount of the Phase III award.".

SEC. 309. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

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

"(kk) 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 or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Fed-

eral agency whether the Federal agency has the consent of the concern to—

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

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

"(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).".

SEC. 310. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

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

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

"(1) IN GENERAL.—Subject to paragraph (2), for the 3 full fiscal years beginning after the date of enactment of this subsection, the Administrator

shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

"(A) the administration of the SBIR program or the STTR program of the Federal agency;

"(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits and personnel interviews;

"(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

"(D) carrying out the program under subsection (y);

"(E) activities relating to oversight and congressional reporting, including the waste, fraud, and abuse prevention activities described in section 312(a)(1)(B)(ii) of the Creating Jobs Through Small Business Innovation Act of 2011;

"(F) targeted reviews of recipients of awards under the SBIR program or STTR pro-

gram of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program or STTR program, respectively;

"(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

"(H) carrying out subsection (dd);

"(I) carrying out subsection (hh);

"(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

"(K) funding for additional personnel and assistance with application reviews.

"(2) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

"(3) RULES.—Not later than 180 days after the date of enactment of this subsection, the Admin-

1 istrator shall issue rules to carry out this sub-
2 section.".
3 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
4 (1) IN GENERAL.—Section 9 of the Small Busi-
5 ness Act (15 U.S.C. 638), as amended by this Act,
6 is further amended—
7 (A) in subsection (f)(2), by striking "shall
8 not" and all that follows through "make avail-
9 able for the purpose" and inserting "shall not
10 make available for the purpose"; and
11 (B) in subsection (y)—
12 (i) by striking paragraph (4); and
13 (ii) by redesignating paragraphs (5)
14 and (6) as paragraphs (4) and (5), respec-
15 tively.
16 (2) TRANSITIONAL RULE.—Notwithstanding the
17 amendments made by paragraph (1), subsection
18 (f)(2) and (y)(4) of section 9 of the Small Business
19 Act (15 U.S.C. 638), as in effect on the day before
20 the date of enactment of this Act, shall continue to
21 apply to each Federal agency until the effective date
22 of the performance criteria established by the Ad-
23 ministrator under subsection (ll)(2) of section 9 of
24 the Small Business Act, as added by subsection (a).

(3) PROSPECTIVE REPEAL.—Effective on the first day of the fourth full fiscal year following the date of enactment of this Act, section 9 of the Small Business Act (15 U.S.C. 638), as amended by paragraph (1) of this section, is amended—

(A) in subsection (f)(2), by striking "shall not make available for the purpose" and inserting the following: "shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose"; and

(B) in subsection (y)—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(ii) by inserting after paragraph (3) the following:

"(4) FUNDING.—

"(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to the De-

partment of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Pilot Program under this subsection.

"(B) LIMITATIONS.—The funds described in subparagraph (A)—

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

"(ii) shall not be used to make Phase III awards.".

SEC. 311. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY, HEDGE FUND, AND PRIVATE EQUITY FIRM INVOLVEMENT.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company, hedge fund, and private equity firm involvement under section 9 of the Small Business Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

SEC. 312. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

(1) GUIDELINES FOR FRAUD, WASTE, AND ABUSE PREVENTION.—

(A) AMENDMENTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(B) CONTENT OF AMENDMENTS.—The amendments required under subparagraph (A) shall include—

(i) definitions or descriptions of fraud, waste, and abuse;

(ii) a requirement that the Inspectors General of each Federal agency that participates in the SBIR program or the STTR program cooperate to—

(I) establish fraud detection indicators;

(II) review regulations and operating procedures of the Federal agencies;

(III) coordinate information sharing between the Federal agencies; and

(IV) improve the education and training of, and outreach to—

(aa) administrators of the SBIR program and the STTR program of each Federal agency;

(bb) applicants to the SBIR program or the STTR program; and

(cc) recipients of awards under the SBIR program or the STTR program;

(iii) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program; and

(iv) a requirement that each Federal agency that participates in the SBIR program or STTR program include the telephone number of the hotline established under paragraph (2)—

(I) on the Web site of the Federal agency; and

(II) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program.

(2) FRAUD, WASTE, AND ABUSE PREVENTION HOTLINE.—

(A) HOTLINE ESTABLISHED.—The Administrator shall establish a telephone hotline that allows individuals to report fraud, waste, and abuse in the SBIR program or STTR program.

(B) PUBLICATION.—The Administrator shall include the telephone number for the hotline established under subparagraph (A) on the Web site of the Administration.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study that evaluates—

(A) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(B) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(C) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;

(D) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;

(E) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency; and

(F) the extent to which the Inspector General of each Federal agency that participates in the SBIR program or STTR program effectively conducts investigations of individuals alleged to have submitted false claims or violated

Federal law relating to fraud, conflicts of interest, bribery, gratuity, or other misconduct; and

(2) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under subparagraph (A).

SEC. 313. SIMPLIFIED PAPERWORK REQUIREMENTS.

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

(1) in the subsection heading, by striking "SIMPLIFIED REPORTING REQUIREMENTS" and inserting "REDUCING PAPERWORK AND COMPLIANCE BURDEN";

(2) by striking "The Administrator" and inserting the following:

"(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator"; and

(3) by adding at the end the following:

"(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than one year after the date of enactment of this paragraph, and after a pe-

riod of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.''.

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of

this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

TITLE V—OTHER PROVISIONS

SEC. 501. REPORT ON SBIR AND STTR PROGRAM GOALS.

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

"(mm) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

"(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

"(A) are science-based and statistically driven;

"(B) reflect the mission of the Federal agency; and

"(C) include factors relating to the economic impact of the programs.

"(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an

annual evaluation using the metrics developed under paragraph (1) of—

"(A) the SBIR program and the STTR program of the Federal agency; and

"(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

"(3) REPORT.—

"(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

"(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

"(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

"(i) the Committee on Small Business and Entrepreneurship of the Senate; and

"(ii) the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.".

SEC. 502. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

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

"(nn) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.".

SEC. 503. LOAN RESTRICTIONS.

(a) RULE REQUIRED.—For purposes of section 9 of the Small Business Act (15 U.S.C. 638), the Administrator shall promulgate a rule not later than 180 days after the date of enactment of this Act that determines what restrictions, conditions, or covenants contained in a note, bond, debenture, other evidence of indebtedness, or preferred stock constitute affiliation for purposes of section 121.103(a) of title 13, Code of Federal Regulations, as in effect on January 1, 2011.

1 (b) FAILURE TO PROMULGATE.—If the Adminis-
2 trator fails to promulgate a rule in the time period re-
3 quired under subsection (a), the holder of a note, bond,
4 debenture, other evidence of indebtedness, or preferred
5 stock shall be considered to be affiliated with the debtor
6 or issuer of the preferred stock until such time as the Ad-
7 ministrator promulgates the rule required under sub-
8 section (a).

○

SECTION-BY-SECTION ANALYSIS OF
H.R. 1425, CREATING JOBS THROUGH SMALL BUSINESS INNOVATION ACT OF 2011

Section By Section Description

TITLE 1—REAOUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension Length

This section extends the SBIR and STTR programs for 3 years until September 30, 2014.

Sec. 102. SBIR and STTR Award Levels

This section increases the size of SBIR and STTR awards from $100,000 to $150,000 for Phase I and from $750,000 to $1 million for Phase II, and requires the SBA to make annual adjustments of the award sizes for inflation. The provision prohibits any agency from issuing an SBIR or STTR award if the size of the award exceeds the award guidelines established in this section by more than 50 percent. Finally, the provision requires federal agencies to maintain information on awards exceeding the award guidelines; including the award amount; a justification for exceeding the guidelines; the identity and location of the recipient; and whether or not the recipient firm has received venture capital, hedge fund, or private equity firm investment, and if so, whether or not it is majority owned and controlled by one or more venture capital companies, hedge funds, or private equity firms. Nothing shall prevent a Federal agency from supplementing an award under the SBIR or STTR programs with Federal funds that are outside of the SBIR and STTR allocations.

Sec. 103. Agency and Program Flexibility

The section allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency and also allows small business concerns which received SBIR or STTR awards to receive awards for subsequent phases in either the STTR or SBIR program, respectively.

Sec. 104. Elimination of Phase II Invitations

This section requires that federal agencies conduct their solicitation of Phase II SBIR and STTR proposals without any invitation, pre-screening, pre-selection, or down-selection process between the first and second phase.

Sec. 105. Phase Flexibility

This section grants agencies the ability to provide a Phase II Award if the Agency finds that the small business concern has already completed the work typically done during Phase I.

Sec. 106 and Sec. 107. Participation by Firms with Substantial Investment from Multiple Venture Capital Operating Companies in a Portion of the SBIR Program

Section 106 allows the Departments of Health of Human Services and Energy and the National Science Foundation to permit firms majority owned and controlled by one or more venture capital companies, one or more hedge funds, or one or more private equity firms to compete for up to 45 percent of the agency's SBIR funds. All other qualifying federal agencies shall allow majority owned private investment backed small businesses to compete for up to 35 percent of the agency's SBIR funds. Sec. 107 defines what affiliations are between various outside investors (such as venture capital companies, private equity firms, etc.) and small business concerns for purposes of determining whether the combination is eligible for an award under the SBIR program.

Sec. 108. SBIR and STTR Special Acquisition Preference

This section codifies the language from the SBIR and STTR Policy Directives confirming the intent of Congress to establish a special acquisition preference for SBIR and STTR Phase III awards. The provision clarifies that preference for contracts concerning research developed with SBIR or STTR funds should go to the developers and holders of SBIR and STTR technologies to the greatest extent practicable.

Sec. 109. Collaborating with Federal Laboratories and Research and Development Centers

This section reduces the burden on cooperation between SBIR/STTR firms and federal laboratories by ensuring that such subcontracting is generally permitted without the requirement for a waiver. The provision also ensures that subcontracting to federal laboratories is not required of SBIR or STTR awardees. Finally, it clarifies that firms that have entered into a cooperative agreement with a federal laboratory are eligible to receive SBIR/STTR awards.

Sec. 110. Notice Requirement

This section ensures that the SBA is notified any time the SBIR or STTR policy directives are challenged in court.

Sec. 111. Additional SBIR and STTR Awards

The section allows SBIR and STTR applicants to receive one sequential Phase II award for a single project. It also requires agencies to verify that any activity to be performed with respect to a project with a Phase I and Phase II award has not been funded from another Federal agency.

TITLE II—COMMERCIALIZATION AND OUTREACH INITIATIVES

Sec. 201. Technical assistance for awardees

This section increases the amount of discretionary technical assistance that SBIR and STTR agencies can contract out to provide to awardees from $4,000 to $5,000 for Phase I awards and from $4,000 to $5,000 per year for Phase II awards. The provision also states that this amount shall be in addition to the amount of the recipient's award. It also requires agencies to provide SBIR and STTR award winners who wish to procure their own technical assistance with the allowable amount. Finally, the provision prohibits the agencies from using these funds to pay its contractor for technical assistance for a given SBIR or STTR award unless the contractor provides the technical assistance to that awardee.

Sec. 202. Commercialization Readiness Program at Department of Defense

This section extends the SBIR Commercialization Pilot Program (CPP) at the Department of Defense permanently and extends it to the department's STTR program. It also changed the name to the Commercialization Readiness Program. The provision authorizes the Secretary of Defense to establish goals for transitioning Phase I and Phase II technologies in subcontracting plans for contracts of $100 million or more. The provision also requires the Secretary of Defense to set a goal to increase the number of Phase II contracts that lead to technology transition into programs of record or fielded systems and to use incentives to encourage agency program managers and prime contractors to meet that goal. Finally, the provision includes reporting requirements on the status of projects funded through CRP.

Sec. 203. Commercialization Readiness Pilot Program for Civilian Agencies

This section authorizes agencies other than the Department of Defense to create Commercialization Readiness Pilot Programs (using no more than 10% of their program authorization) to support advanced development of small business technologies which are facing high manufacturing or regulatory costs. The provision authorizes these agencies to grant post-Phase II awards up to two times the regular size (up to $3 million). Authority of establish such a pilot program expires at the end of FY2014.

Sec. 204. Interagency Policy Committee

This section directs the Office of Science and Technology Policy to establish an SBIR/STTR Interagency Policy Committee to review and make policy recommendations on ways to improve the effectiveness and efficiency of the SBIR and STTR programs.

Sec. 205 Clarifying Definition of Phase III

This section revises the definition of "Phase Three" of the SBIR program so that it is clear that such work shall be directed toward commercial applications and derives from research and development completed in earlier phases.

Sec. 206. Shortened Period for Final Decisions on Proposals and Applications

This section requires that not later than 90 days after, and if the Administrator authorizes an extension, then not later than 180 days, from the date on which the solicitation closes for SBIR and STTR programs, that the Administrator make a decision on each proposal submitted. It also allows the Director of NIH to make an award under the SBIR or STTR programs when an application for award undergoes a technical and scientific peer review.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining Annual Evaluation Requirements

This section requires the Administration to report to Congress at least annually the number of proposals received from firms with venture capital, private equity, or hedge fund investment, including those owned and controlled by multiple venture capital, private equity, or hedge fund firms. It also requires the Administration to report on efforts to increase outreach to firms owned and controlled by women and socially or economically disadvantaged individuals, the implementation and compliance with the allocation of funds for firms majority owned and controlled by multiple venture capital, private equity or hedge fund companies, and appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives. Finally, the section requires the Administration to coordinate the implementation of electronic databases at the participating agencies.

Sec. 302. Data Collection From Agencies for SBIR

This section requires agencies with an SBIR program to collect data annually on whether or not an applicant or awardee has venture capital, private equity or hedge fund investment, if it is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms, the amount of that outside capital it has received at the time of award, if it has foreign investors and who they are, if it is owned by a woman, if it is owned by a socially or economically disadvantaged individual, and if it has a university affiliation. The provision also requires agencies to justify awards given that exceed the statuary guidelines. Agencies must collect data and report annually on whether or not the award winner is from a state receiving less federal research funding for small businesses than a majority of other states.

Sec. 303. Data Collection From Agencies for STTR

This section requires agencies with an STTR program to collect data annually on whether or not an applicant or awardee has venture capital, private equity or hedge fund investment, if it is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms, the amount of that outside capital it has received at the time of award, if it has foreign investors and who they are, if it is owned by a woman, if it is owned by a if it is owned by a socially or economically disadvantaged individual, and if it has a university affiliation. The provision also requires agencies to justify awards given that exceed the statutory guidelines.

Sec. 304. Public Database

This section requires that the public database maintained by the Administrator include information on whether or not a firm receiving an award has venture capital, private equity or hedge fund investment, if it is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms, the amount of that outside capital it has received at the time of award, is owned by a woman, is owned by a if it is owned by a socially or economically disadvantaged individual, or has a university affiliation.

Sec. 305. Government Database

This section requires that the government database maintained by the Administrator in coordination with the agencies for the purposes of evaluation of the SBIR and STTR programs include information on the ownership structure and affiliations of awardee firms that have venture capital, private equity, or hedge fund investment, and that are majority owned and controlled by multiple venture capital, private equity, or hedge fund firms whether or not a firm is owned by a woman, is owned by a minority, or has a university affiliation.

Sec. 306. Accuracy in Funding Base Calculations

This section requires the Comptroller General of the United States to conduct an audit of the SBIR and STTR programs to determine whether federal agencies are complying with the expenditure requirements.

Sec. 307. Continued Evaluation by the National Academy of Sciences

This section authorizes the National Academy of Sciences to continue its evaluation of the SBIR program through the end of fiscal year 2021 and requires that updates of the studies be provided to Congress every four years from the date of enactment.

Sec. 308. Technology Insertion Reporting Requirements

This section requires the Administration to include in its annual report to Congress information on Phase III awards issued by SBIR and STTR agencies, including the dollar amount of these awards, their recipients, and the name of component or agency issuing them.

Sec. 309. Obtaining Consent from SBIR and STTR Applicants to Release Contact Information to Economic Development Organizations

This section requires each Federal agency that conducts an SBIR or STTR program to enable small business concerns that are SBIR or STTR applicants to indicate whether that Federal agency has consent to identify the small business concern to local and State-level economic development organizations.

Sec. 310. Pilot to Allow Funding for Administrative, Oversight, and Contract Processing Costs

This section requires that the Administrator allow each Federal agency to not use more than 3 percent of the funds allocated to the SBIR programs for the first fiscal year beginning after the enactment of this subsection, and each year thereafter through fiscal 2014, for costs relating to administrative, oversight and contract processing activities for SBIR programs that the Federal agency was not carrying out the last full fiscal year before the enactment of this subsection, as well as for the period of 3 years after the enactment of this subsection, for the implementation of commercialization and outreach initiatives that were not in effect on the date of the enactment of this subsection.

Sec. 311. GAO Study with Respect to Outside Investment Involvement

This section requires that not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States conduct a study on the impact of requirements relating to venture capital operating company, private equity firm, and hedge fund involvement in the SBIR and STTR programs.

Sec. 312. Reducing Vulnerability of SBIR and STTR Programs to Fraud, Waste, and Abuse

This section requires the Administrator to, not later than 90 days after the enactment of this Act, amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse. Critical provisions include:

(1) Establishing dedicated administrative funds to be used by participating SBIR/STTR programs for targeted reviews of award recipients that could be at high risk for waste, fraud and abuse;

(2) Requiring Inspectors General of participating SBIR/STTR federal agencies to establish fraud detection measures, coordinate fraud-related information sharing between agencies, and provide fraud prevention-related education and training to agencies administering the program;

(3) Requiring the Small Business Administrator to amend the SBIR and STTR Policy Directives to include specific measures to prevent waste, fraud and abuse;

(4) Creating a special SBIR/STTR telephone hotline that allows individuals to report waste, fraud and abuse;

(5) Ordering the Government Accountability Office to conduct a study assessing the SBIR/STTR programs' vulnerabilities to waste, fraud and abuse; and

(6) Strengthening the Small Business Administration's existing Tech-Net Database by requiring SBIR and STTR applicants to submit additional information that will help reduce "duplicative funding."

Sec. 313. Simplified Paperwork Requirements

This section directs the SBA Administrator to issue regulations or guidelines to (the extent possible) standardize SBIR and STTR application paperwork.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives

This section requires conforming amendments to the SBA's SBIR and STTR Policy Directives within 180 days to implement the provisions of this Act. It also requires that the Administration publish the SBIR and STTR Policy Directives in the Code of Federal Regulations within 180 days.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR Program Goals

This provision directs each federal agency required to participate in an SBIR or STTR program to: (1) develop metrics in conjunction with the Interagency Policy Committee described in Sec. 204 to evaluate the effectiveness and benefit of such program; (2) conduct an annual evaluation of their program using such metrics; and (3) report evaluation results annually to the Administrator and the relevant Congressional Committees.

Sec. 502. Competitive Selection Procedures for SBIR and STTR Programs

This section requires all SBIR or STTR funds to be awarded pursuant to competitive and merit-based selection procedures.

Sec. 503. SBA Regulations on Loan Restrictions

This section requires the SBA to develop regulations solely for purposes of the SBIR program that when or how restrictive covenants in loan agreements would constitute control for purposes of affiliation.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
Subcommittee on Technology and Innovation Markup
April 13, 2011

AMENDMENT ROSTER

H. R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

No.	Amendment	Summary	Results
1	Mr. Wu (006)	Extends the authorization period by 2 years for SBIR and STTR; changes it from FY 2012-2014 to FY2012-2016.	Not Agreed to by voice vote
2	Mr. Lipinski (015)	Directs the agencies making awards in the SBIR and STTR commercialization pilot program to consider whether the technology to be supported is likely to be manufactured in the United States.	Agreed to by voice vote
3	Mr. Quayle (007)	Ensures that SBIR and STTR applications go through peer review processes at the National Institutes of Health and the National Science Foundation before awards are made.	Agreed to by voice vote
4	Ms. Wilson (006)	Authorizes $10 million for FY 2012-2014 for the Small Business Administration to award grants on a competitive basis to organizations to conduct outreach efforts and to provide application preparation support to business categories underrepresented in SBIR and STTR.	Defeated by roll call vote 4 Yeas and 9 Nays.
5	Mr. Lipinski (016)	Requires the evaluation by the National Academies to include an estimate of the number of jobs created "in the United States" rather than just the number of jobs created.	Agreed to by voice vote
6	Mr. Lujan (015)	Requires a study and report by the National Academy of Sciences on how the STTR program has stimulated technological innovation and used small business to meet Federal technology transfer needs.	Withdrawn
7	Mr. Lujan (014)	Requires Federal agencies to encourage applications under SBIR and STTR by small business concerns: 1) located in underrepresented geographic areas; 2)owned by women; owned by veterans; owned by minorities; and 3) located in areas with high unemployment.	Agreed to by voice vote

AMENDMENT TO H.R. 1425

OFFERED BY MR. WU OF OREGON

Page 4, line 1, strike "2014" and insert "2016".

Page 4, line 9, strike "2014" and insert "2016".

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AMENDMENT TO H.R. 1425

OFFERED BY MR. LIPINSKI OF ILLINOIS

Page 30, after line 9, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

1 "(5) AWARD CRITERIA OR CONSIDERATION.—
2 When making an award under this section, the head
3 of a covered Federal agency shall give consideration
4 to whether the technology to be supported by the
5 award is likely to be manufactured in the United
6 States.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. QUAYLE OF ARIZONA

Page 41, line 4, strike "(1) IN GENERAL.—".

Page 41, line 8, strike "The Director" and insert "Notwithstanding subsection (g)(4)(B), the Director".

Page 41, line14, after subsection (ii) insert the following new subsection:

1 "(jj) NSF PEER REVIEW PROCESS.—Notwith-
2 standing subsection (g)(4)(B), the Director of the Na-
3 tional Science Foundation may make an award under the
4 SBIR program or the STTR program of the National
5 Science Foundation only if the application for the award
6 has undergone the National Science Foundation's tech-
7 nical and scientific peer review process and met all other
8 applicable peer review procedures and guidelines pursuant
9 to the National Science Foundation Act of 1950 (42
10 U.S.C. 1861, et seq.) and other applicable Federal law.".

Page 41, line 15, through page 42, line 11, strike paragraph (2).

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AMENDMENT TO H.R. 1425

OFFERED BY MS. WILSON OF FLORIDA

Page 42, after line 11, insert the following new section:

1 **SEC. 207. OUTREACH AND SUPPORT ACTIVITIES.**

2 Section 9 of the Small Business Act (15 U.S.C. 638)
3 is amended by inserting after subsection (r) the following:
4 "(s) OUTREACH AND SUPPORT ACTIVITIES.—
5 "(1) IN GENERAL.—Subject to the other provi-
6 sions of this subsection, the Administrator shall
7 make grants on a competitive basis to organizations,
8 to be used by the organizations to do one or both
9 of the following:
10 "(A) To conduct outreach efforts to in-
11 crease participation in the programs under this
12 section.
13 "(B) To provide application support and
14 entrepreneurial and business skills support to
15 prospective participants in the programs under
16 this section.
17 "(2) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated to the Ad-

1 ministrator $10,000,000 to carry out paragraph (1)
2 for each of fiscal years 2012 through 2014.
3 "(3) AMOUNT OF ASSISTANCE.—For each of
4 subparagraphs (A) and (B) of paragraph (1), the
5 amount of assistance provided to an organization
6 under that subparagraph in any fiscal year—
7 "(A) shall be equal to the total amount of
8 matching funds from non-Federal sources pro-
9 vided by the organization; and
10 "(B) shall not exceed $250,000.
11 "(4) DIRECTION.—An organization receiving
12 funds under paragraph (1) shall, in using those
13 funds, direct its activities at one or more of the fol-
14 lowing:
15 "(A) Small business concerns located in
16 geographic areas that are underrepresented in
17 the programs under this section.
18 "(B) Small business concerns owned and
19 controlled by women, small business concerns
20 owned and controlled by service-disabled vet-
21 erans, and small business concerns owned and
22 controlled by minorities.
23 "(C) Small business concerns owned and
24 controlled by Native Americans.

"(D) Small business concerns located in geographic areas with an unemployment rate that exceeds the national unemployment rate.

"(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, Space, 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 (including geographic areas with

1 an unemployment rate that exceeds the national
2 unemployment rate) or an underrepresented
3 population group (as measured by the number
4 of SBIR applicants);
5 "(B) criteria designed to give preference—
6 "(i) to applicants serving underrep-
7 resented States and regions; and
8 "(ii) to applicants who are women-
9 owned, service-disabled veterans-owned, or
10 minority-owned;
11 "(C) criteria designed to give preference to
12 applicants who propose to carry out activities
13 that complement, and are integrated into, the
14 existing public-private innovation support sys-
15 tem for the targeted region or population;
16 "(D) criteria designed to give preference to
17 applicants who propose to measure the effec-
18 tiveness of the proposed activities; and
19 "(E) criteria designed to give preference to
20 applicants who include a Small Business Devel-
21 opment Center program that is accredited for
22 its technology services.
23 "(7) PEER REVIEW.—In awarding grants under
24 this subsection, the Administrator shall use a peer
25 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.".

AMENDMENT TO H.R. 1425

OFFERED BY MR. LIPINSKI OF ILLINOIS

Page 58, line 24, insert ''in the United States'' after ''number of jobs created''.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. LUJÁN OF NEW MEXICO

Page 59, after line 19, insert the following new section (and redesignate the subsequent sections accordingly):

1 **SEC. 308. NATIONAL ACADEMY OF SCIENCES STUDY OF THE**
2 **STTR PROGRAM.**

3 (a) IN GENERAL.—Not later than 6 months after the
4 date of enactment of this Act, the head of each agency
5 participating in an STTR program, in consultation with
6 the Small Business Administration, shall cooperatively
7 enter into an agreement with the National Academy of
8 Sciences for the National Research Council to—

9 (1) conduct a comprehensive study of how the
10 STTR program has stimulated technological innova-
11 tion and used small businesses to meet Federal tech-
12 nology transfer needs, including—

13 (A) an evaluation of the partnerships cre-
14 ated between small businesses and research in-
15 stitutions, including the number of new partner-
16 ships created, the effectiveness of partnerships
17 in achieving technical objectives of research
18 projects and the degree of difficulty or ease in

1 negotiating details of cooperative research
2 agreements, including issues around intellectual
3 property rights;
4 (B) an evaluation of the effectiveness of
5 the program at transferring technology and ca-
6 pabilities developed by Federal funding from re-
7 search institutions to small businesses;
8 (C) an evaluation of the degree of success
9 at commercializing technologies developed in the
10 program and comparison with similar tech-
11 nology transfer programs as well as the SBIR
12 program;
13 (D) to the extent practicable, an evaluation
14 of the economic benefits achieved by the STTR
15 program, including the economic rate of return,
16 the number of new businesses created and the
17 number of new jobs created; and
18 (E) an analysis of whether Federal agen-
19 cies, in fulfilling their procurement needs, are
20 making sufficient effort to use small businesses
21 that have completed a second phase award
22 under the STTR program; and
23 (2) make recommendations with respect to—
24 (A) the effects that an in increase or de-
25 crease in the set-aside percentage for the STTR

1 negotiating details of cooperative research
2 agreements, including issues around intellectual
3 property rights;
4 (B) an evaluation of the effectiveness of
5 the program at transferring technology and ca-
6 pabilities developed by Federal funding from re-
7 search institutions to small businesses;
8 (C) an evaluation of the degree of success
9 at commercializing technologies developed in the
10 program and comparison with similar tech-
11 nology transfer programs as well as the SBIR
12 program;
13 (D) to the extent practicable, an evaluation
14 of the economic benefits achieved by the STTR
15 program, including the economic rate of return,
16 the number of new businesses created and the
17 number of new jobs created; and
18 (E) an analysis of whether Federal agen-
19 cies, in fulfilling their procurement needs, are
20 making sufficient effort to use small businesses
21 that have completed a second phase award
22 under the STTR program; and
23 (2) make recommendations with respect to—
24 (A) the effects that an in increase or de-
25 crease in the set-aside percentage for the STTR

"(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

AMENDMENT TO H.R. 1425

OFFERED BY MR. LUJÁN OF NEW MEXICO

At the end of the bill, add the following new section:

SEC. 504. PROGRAM DIVERSIFICATION.

Federal agencies shall encourage applications under the SBIR and STTR programs (to the extent that the projects relate to the mission of the Federal agency) from—

(1) small business concerns in geographic areas underrepresented in the SBIR and STTR programs or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

(2) small business concerns owned and controlled by women;

(3) small business concerns owned and controlled by veterans;

(4) small business concerns owned and controlled by minorities; and

(5) small business concerns located in a geographic area with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the

1 Bureau of Labor Statistics of the Department of
2 Labor.

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XXII: PROCEEDINGS OF THE FULL COMMITTEE MARKUP ON H.R. 1425, CREATING JOBS THROUGH SMALL BUSINESS INNOVATION ACT OF 2011

WEDNESDAY, MAY 4, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, DC.

The Committee met, pursuant to call, at 10:04 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Ralph M. Hall [Chairman of the Committee] presiding.

Chairman HALL. Good morning to everyone. The Committee on Science, Space, and Technology will come to order. Pursuant to notice, the Committee on Science, Space, and Technology meets today to consider the following measure: H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011.

And before we proceed with the markup I would like to have a little homework done here. I would like to designate the vice chair for each of the subcommittees. Rule 1, Subsection F of the committee rules provides that the committee chair designate a majority member of each subcommittee to serve as vice chair of each subcommittee. Pursuant to the rules I am pleased to designate the Honorable Lamar Smith of Texas as the vice chair of the Subcommittee on Space and Aeronautics, the Honorable Dana Rohrabacher as the vice chair of the Subcommittee on Energy and Environment, the Honorable Judy Biggert as the sub chair on the Committee of Technology and Innovation, the Honorable Roscoe Bartlett as the vice chair of the Subcommittee on Research and Science Education, and the Honorable Sandy Adams as the vice chair of the Subcommittee on Investigations and Oversight. I thank each of them in advance for their service. Rosters reflecting these designations are in the drawers in front of you.

And now we will proceed with the markup, again, with opening statements, and I will begin.

Today we are going to commit—we are going to consider H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. This bill was introduced on April the 7th and was marked up by the Technology and Innovation Subcommittee April the 13th. H.R. 1425 authorizes the Small Business Innovation Research, SBIR, and the Small Business Technology Transfer, STTR, Programs through fiscal year 2014.

These programs play a vital role in expanding innovation and increasing the role of small businesses and federal research and de-

velopment. Innovation developed through SBIR and STTR grants have in some cases led to rapid expansion resulting in many new jobs for our Nation. I am sure that most of you are familiar with companies like Qualcomm and Sonicare. These companies are no longer small, but at one point in time they were tiny, and they started to grow thanks in part to the SBIR Program.

The legislation before us is a compromise and a comprehensive reauthorization of both programs. The bill will increase award amounts to both the SBIR and STTR Programs for phase I and phase II to $150,000 and $1 million respectively, enable small businesses that are majority venture capital backed to compete for a limited percentage of SBIR awards and continue to emphasize the importance of commercializing technologies.

For the first time the bill would provide agencies flexibility to use up to three percent of their program funds toward activities relating to outreach, technical assistance, commercializations, program oversight, and quality control.

The legislation before us today would also strengthen SBIR and STTR data collection requirements and evaluation measurement criteria. This would improve our ability to conduct effective evaluations of the programs and ensure that we are getting the greatest return on our taxpayer investment.

I believe Chairman Broun may also submit an amendment today to improve the detections of fraud, waste, and the abuse in these various programs, and I commend him for working to include these provisions.

I would also like to thank Chairman Quayle for his leadership on this legislation and for shepherding it through the subcommittee. I would also like to recognize Ranking Member Johnson and Wu, both members, for being original cosponsors of this legislation.

I strongly urge my colleagues to support H.R. 1425.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF CHAIRMAN RALPH M. HALL

Today our Committee will consider H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. This bill was introduced on April 7th and was marked up by the Technology and Innovation Subcommittee on April 13th.

H.R. 1425 authorizes the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs through fiscal year 2014.

These programs play a vital role in expanding innovation, and increasing the role of small businesses in federal research and development. Innovations developed through SBIR and STTR grants have in some cases led to rapid expansion, resulting in many new jobs for our nation. I am sure that most of you are familiar with companies like Qualcomm and Sonicare. These companies are no longer small, but at one point in time, they were tiny, and they started to grow thanks in part to the SBIR program.

The legislation before us is a comprehensive reauthorization of both programs. The bill would increase award amounts in both the SBIR and STTR programs for Phase I and Phase II to $150,000 and $1 million, respectively; enable small businesses that are majority venture capital backed to compete for a limited percentage of SBIR awards; and continue to emphasize the importance of commercializing technologies.

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The legislation before us today would also strengthen SBIR and STTR data collection requirements and evaluation measurement criteria. This would improve our ability to conduct effective evaluations of the programs, and ensure that we are get-

ting the greatest return on our taxpayer investment. I believe Chairman Broun may also submit an amendment today to improve the detection of waste, fraud, and abuse in these programs, and I commend him for working to include these provisions.

I would like to thank Chairman Quayle for his leadership on this legislation and for shepherding it through the subcommittee.

I would also like to recognize Ranking Members Johnson and Wu for being original cosponsors of this legislation.

I strongly urge my colleagues to support H.R. 1425, and I now recognize the gentlelady from Texas for an opening statement.

Chairman HALL. And I now recognize the gentlelady from Texas for an opening statement. Mrs. Johnson.

Ms. JOHNSON. Thank you very much, Mr. Chairman. Today we are marking up H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. I am pleased to join you, Mr. Hall, as an original cosponsor of this important legislation and to reauthorize SBIR and the STTR Programs.

I would like to thank Mr. Wu for his work on this bill. No one in Congress is more committed to SBIR and STTR Programs than Mr. Wu. His tireless efforts to support—in support of these programs and in getting this reauthorization bill enacted is to be admired and respected, and I want to thank you for all that you have done to get us to this point, Mr. Wu.

Mr. Chairman, this is a good piece of legislation, and I am confident that the bill we have before us today is a better bill because it benefited from the bipartisan input in its development. We all recognize the important role that small businesses play in fueling technological innovation and creating jobs in the United States.

That being the case, we should be doing what we can to foster a vibrant small business community and give our small businesses the tools that they need to succeed. The SBIR and STTR Programs are such tools. They have been critically important programs for fostering innovation by small businesses.

As we continue our efforts to keep our economy on the path to recovery, it is more important than ever that we recommit ourselves to these programs and get a comprehensive reauthorization bill enacted.

As I have noted, I support this bill. It includes many good provisions that I believe are necessary and important and that will make the SBIR and STTR Programs more efficient and effective. The bill also takes great strides to modernize the programs, making them more responsive to the ever-changing, high tech sector, and the demands of the global economy.

That being said, there is definitely room for improvement. For example, this bill falls short to include any formal outreach programs for women and minority-owned small businesses. This is despite the fact that increasing participation is one of the stated goals of the program and one which the National Academy's founders decided they have a mixed track record.

It is irresponsible for us to ignore this issue. The bill should include a meaningful provision that will give the agencies the tools and resources they need to conduct the outreach and technical assistance that is necessary to meet this challenge.

I will be offering an amendment along with Congresswoman Wilson later this morning to rectify the situation. I hope it will be accepted. I know that some of our colleagues have other good amend-

ments to strengthen and improve the bill, and I hope they will be supported.

Thank you, Mr. Chairman. Again, I look forward to working with you to get this bill to the House Floor as soon as possible, and I yield back the balance of my time.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Thank you, Chairman Hall. Today, we are marking up H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011. I am pleased to join you, Chairman Hall, as an original cosponsor of this important legislation to reauthorize the SBIR and STTR programs.

I would also like to thank Mr. Wu for his work on this bill. No one in Congress is more committed to the SBIR and STTR programs than Mr. Wu. His tireless efforts in support of these programs and in getting this reauthorization bill enacted is to be admired and respected. Thank you for all that you have done to get us to this point, Mr. Wu.

Mr. Chairman, this is a good piece of legislation. I am confident that the bill we have before us today is a better bill because it benefited from bipartisan input in its development.

We all recognize the important role that small businesses play in fueling technological innovation and creating jobs in the United States. That being the case, we should be doing what we can to foster a vibrant small business community and give our small businesses the tools that they need to succeed. The SBIR and STTR programs are such tools—they have been critically important programs for fostering innovation by small businesses.

As we continue our efforts to keep our economy on the path to recovery, it is more important than ever that we recommit ourselves to these programs and get a comprehensive reauthorization bill enacted.

As I've noted, I support this bill. It includes many good provisions that I believe are necessary and important, and that will make the SBIR and STTR programs more efficient and effective.

The bill also takes great strides to modernize the programs, making them more responsive to the ever-changing high-tech sector and the demands of the global economy.

That being said, there is definitely room for improvement. For example, this bill fails to include any formal outreach program for women and minority-owned small businesses. This is despite the fact that increasing participation is one of the stated goals of the program, and one for which the National Academies found a decidedly mixed track record.

It is irresponsible of us to ignore this issue. The bill should include a meaningful provision that will give the agencies the tools and resources they need to conduct the outreach and technical assistance that is necessary to meet this challenge.

I will be offering an amendment—along with Congresswoman Wilson—later this morning to rectify this situation and I hope that it will be accepted.

I know that some of our colleagues have other good amendments to strengthen and improve the bill, and I hope that they will be supported.

Thank you again, Mr. Chairman. I look forward to working with you to get this bill to the House floor as soon as possible. And I yield back the balance of my time.

Chairman HALL. Thank the gentlelady.

Without objection all members' opening statements will be placed in the record at this point.

And we will now consider the bill, H.R. 1425, The Creating Jobs Through Small Business Innovation Act of 2011.

Without objection I ask unanimous consent that the bill is considered as read and open to amendment at any point and that members proceed with amendments in the order listed on the roster.

And that is so ordered.

Chairman HALL. Are there any amendments to the bill?

Mr. WU. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. The first amendment on the roster is offered by Mr. Wu. The clerk will report the amendment.

The CLERK. Amendment number 010, amendment to H.R. 1425, offered by Mr. Wu of Oregon.

Mr. WU. I ask unanimous consent that the amendment be considered as read.

Chairman HALL. Without objection.

I ask unanimous consent to dispense with the reading.

Without objection, I think it is so ordered, and I recognize the gentleman for five minutes to explain this. Respect to you, Mr. Wu, recognize you for five minutes at this time.

Mr. WU. Thank you very much, Mr. Chairman, and thank you and Chairman Quayle for your work on this legislation, and thank Ms. Johnson for her leadership and work on this legislation, and Ms. Johnson, thank you specifically for your very kind and generous remarks about my labor for the last five years on this legislation.

And it is in the spirit of that five-year push that I offer my amendment to extend the authorization period from three years to five years. I think that some of us have been in that funny place in restaurants where it sometimes takes longer for someone to describe, for the server to describe in great detail the benefits or the spectacular nature of a particular dish, longer than it takes to actually eat the meal.

And in this instance I have been working on a reauthorization for five years, and we have a three-year reauthorization period, which kind of makes me feel like I am in one of those restaurants. I think that there is a much more substantive reason to extend the reauthorization period and that is that the National Research Council report looking at this legislation and making recommendations on it will be due in four years, and a reauthorization at the five-year mark would permit us to take that report into consideration when we do the next reauthorization to that rather than, if you will, fly by the seat of the pants and do the reauthorization in three years.

In addition, a second strong reason for pushing the reauthorization out by another couple of years is because of the need for certainty by applicants for both phase I and phase II awards. I also note that the Senate reauthorization period is currently in their bill at eight years. That is down from a 14-year reauthorization period, which they passed in the last two Congresses, and they are coming down towards a reasonable period. In my view a reasonable five or six-year period, and we have gone up from the two-year period that we, that the House bill had in it in the last Congress, and we are currently at three years, and an increase for which I am grateful, and I think is commendable. I do think that a five-year period is a more useful period and one that will, indeed, in all likelihood be closer to what House and Senate ultimately agree to.

And for all those reasons, Mr. Chairman, I urge adoption of this amendment.

Chairman HALL. Thank you, Mr. Wu, and I thank you for the amendment. I think we debated this in subcommittee. I believe it was voted down in subcommittee, and I think the three-year authorization currently provided by H.R. 1425 is appropriate. It pro-

vides a reasonable amount of time to pass but ensures Congress is going to keep an eye on some of the changes we are considering right today.

I would like to have the opportunity to consider how these languages have impacted the program three years from now instead of five. For these reasons I oppose Mr. Wu's amendment.

Mr. WU. Mr. Chairman, if you could yield to me just for one second.

Chairman HALL. I would yield to the gentleman more than one second.

Mr. WU. I just want to point out that I did not ask for my amendment to be voted down in the subcommittee, and I was saving the moment for today.

Chairman HALL. The chair recognizes that chair made his own observation at the subcommittee, and I think the vote was not there, and you showed good judgment at that time. I would like you to exercise that same judgment now and pull it down, but you don't have to if—is there further discussion?

All right. Then the vote occurs on the amendment. All in favor, say aye. Those opposed, say no. It is my opinion that the no's have it. The amendment is not agreed to.

Mr. WU. Mr. Chairman, today I do ask for a recorded vote on this amendment.

Chairman HALL. All right. The gentleman asks for a recorded vote.

The clerk will call the roll.

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?

[No response.]

The CLERK. Mr. Neugebauer?

[No response.]

The CLERK. Mr. McCaul?

[No response.]

The CLERK. Mr. Broun?

[No response.]

The CLERK. Mrs. Adams?

Mrs. ADAMS. No.
The CLERK. Mrs. Adams votes no.
Mr. Quayle?
Mr. QUAYLE. No.
The CLERK. Mr. Quayle votes no.
Mr. Fleischmann?
Mr. FLEISCHMANN. No.
The CLERK. Mr. Fleischmann votes no.
Mr. Rigell?
Mr. RIGELL. No.
The CLERK. Mr. Rigell votes no.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
[No response.]
The CLERK. Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
[No response.]
The CLERK. Mr. Benishek?
Mr. BENISHEK. No.
The CLERK. Mr. Benishek votes no.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
[No response.]
The CLERK. Ms. Woolsey?
[No response.]
The CLERK. Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
[No response.]
The CLERK. Mr. Lipinski?
[No response.]
The CLERK. Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
[No response.]
The CLERK. Mr. Lujan?

Mr. LUJAN. Aye.
The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. Aye.
The CLERK. Mr. McNerney votes aye.
Mr. Sarbanes?
[No response.]
The CLERK. Ms. Sewell?
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clark?
[No response.]
Chairman HALL. Are there others who wish to vote?
Mr. MCCAUL. Yeah. Mr. Chairman. I would like to be recorded as a no.
The CLERK. Mr. McCaul votes no.
Chairman HALL. Mr. Costello.
Mr. COSTELLO. Mr. Chairman, I would like to be recorded as aye.
The CLERK. Mr. Costello votes aye.
Chairman HALL. All right. The clerk shall report the vote.
The CLERK. Mr. Chairman, eight members vote aye, and 15 members vote no.
Chairman HALL. This amendment is not agreed to, and on this vote there were eight ayes, 15 nos. Amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 **AMENDMENT NO. 010** **ROLL CALL NO.__1__**

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Wu

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*		X		
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*		X		
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*				
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*				
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*				
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*				
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*				
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*				
7 Mr. LIPINSKI - *IL*				
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*				
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*	X			
14 Mr. SARBANES - *MD*				
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*				
TOTALS	8	15		

Chairman HALL. You want to be recognized, Ms. Johnson?

Ms. JOHNSON. Yes. Thank you, Mr. Chairman. I just simply want to say that a five-year authorization I thought was appropriate because under the bill the next phase of the National Research Council evaluation of the program is due in four years after enactment, and this ends in three years. So it is going to make it a little bit more difficult, but providing five years would allow us to take the evaluation into consideration when we sit down for reauthorization again.

I just wanted to point that out. Thank you.

Chairman HALL. We will take note of that, and we did have a roll call vote, so it would put your statements in their proper position and thank you for them.

Are there any other amendments?

Mr. WU. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. For what purpose does the gentleman seek recognition? The next amendment is offered by the gentleman from Oregon, Mr. Wu. Are you ready to proceed with your amendment?

Mr. WU. Yes, sir, I am.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 011, amendment to H.R. 1425, offered by Mr. Wu of Oregon.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, I think it is so ordered. The gentleman is recognized for five minutes to explain the amendment.

Mr. WU. Thank you, Mr. Chairman.

I am offering this amendment to increase award size across the board, and in a moment I want to enter in a discussion with the majority and with the chairman for the specific reason of or for the reason to specifically identify the National Institutes of Health as the one agency where it might be especially appropriate to have a different award size and to propose something that we can take between here and the House Floor so that we can enter into a discussion with the Senate later on. If we pass the award sizes as we do, it would badly infringe on what the NIH is currently doing.

As drafted, my amendment raises the award level from $1 million to $1.5 million. The reason why my amendment is so important for the current legislation is that whether correct or not, the SBA has interpreted the caps in the prior legislation as guidelines and not as hard caps. We made clear in this legislation that these are hard caps, and there is a $1 million cap in the existing bill with a 50 percent potential increase to be determined by the agency.

My amendment would take it to $1.5 million with a 50 percent increase as interpreted by the agency. This means that for phase II it would, the hard cap at most would be 2.25 million and for phase I the hard cap would be $225,000.

Now, I feel that these are appropriate award levels for all the agencies, but for purposes of discussion today I am willing to leave that on the—I am willing to leave that behind, and I want to specifically identify the National Institutes of Health as an agency where we need to work with them on their judgment of what the award sizes ought to be. They have specific expertise in their area, health and biologics and pharmaceuticals, and the information, the data which I got within the last 24 hours is that at the phase I award level of $225,000, 42 percent of the awards that they are currently giving would exceed that amount. And if we have a hard cap in our bill, which we do, then 42 percent of what they are awarding would be eliminated and have to be brought down to the $225,000 level. Even at a $450,000 phase I award level, almost 15 percent of what they are currently awarding exceeds that amount.

Now, I think that these numbers, we should look further into these numbers between now and the time that the bill hits the

House Floor and determine whether, as best as we can legislatively, for legislative information, whether the NIH is appropriately awarding phase I awards this high. By the way, they award phase II awards quite high also.

But we should be setting a different cap level for NIH, and the only question is how high it should be probably different from other agencies. They are doing a good job of spinning off biologics and pharmaceuticals and other healthcare basic biological technologies. We don't want to inhibit that.

The two reasons why we should consider this seriously and have a different number in the House bill are that we, for the first time we have a hard cap in this legislation. The SBA will not be able to interpret around us. I believe in that, but the second reason is that the Senate bill has the same numbers that we do in the current draft of our bill. We will not have a conferenceable issue if we have the exact same numbers.

To be able to solve this problem in conference or before we have to have a different number, and Mr. Chairman, I would like to work with you and the majority to make sure that NIH is protected in its program in an appropriate way going forward, and that is the modified goal of my amendment. I am willing to work with the majority on all the other agencies living within the caps as currently proposed in the House and Senate bills.

Chairman HALL. All right. The gentleman's time has expired, and I thank the gentleman for his amendment, and I understand and do really believe it is the gentleman's intent to ensure that the best research is funded. It is genuine. I also recognize that NIH has funded a number of projects that exceed the new caps in the legislation as he has pointed out.

However, I think that changing the award size would have a negative implication for the SBIR and STTR Programs. Actually, the National Research Council recommended setting the phase II award guidelines at 1 million because this strikes the proper balance between providing adequate funding and ensuring broad participation in the program.

I do oppose the gentleman's amendment and urge my colleagues to do the same. However, it is not all that bad. If Mr. Wu would maybe—if I could suggest that he withdraw the amendment and ask that we work together on this amendment before the Floor, I would probably agree. I am not sure because I am not sure the best way to go about this, whether we single out NIH or find another means to accommodate that agency, but I am willing to work on it.

Are there others who would like to be heard or would like to recognize Mr. Wu for his feelings about—or do you want to go on and take the vote now? What would you like to do, Mr. Wu?

Mr. WU. Mr. Chairman, I think that the path that you have laid out is more than generous. I would like to withdraw the amendment. I have racked my brain as to the best way to do a carve out or some other way to handle NIH in the last 24, 36 hours. I think we need more time and more information, and I look forward to working with you and all the other members of the committee so that we can do something appropriate, and I do mean appropriate for NIH.

Chairman HALL. Actually, I thank the gentleman. I know the time and the work that he has put in on this, his sincerity on it. I think it probably can be worked out.

The gentleman withdraws his amendment.

Let us see. Are there other amendments?

Mr. TONKO. Mr. Chairman.

Chairman HALL. All right. Do you have an amendment at the desk?

Mr. TONKO. Yes, Mr. Chairman. I have an amendment at the desk.

Chairman HALL. The next amendment is offered by the gentleman from New York, Mr. Tonko. Are you ready to proceed with your amendment, sir?

Mr. TONKO. I am, Mr. Chair.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 026, amendment to H.R. 1425, offered by Mr. Tonko of New York.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered.

I recognize Mr. Tonko on his amendment.

Mr. TONKO. Thank you, Mr. Chairman. Since its inception in 1982, the SBIR Program has proven to be one of the most successful federal programs for technological innovation in United States history, delivering more than 60,000 patents and hundreds of valuable innovations in agriculture, defense, energy, health sciences, homeland security, space, transportation, and other fields.

The National Research Council of the National Academies 2007, report, an assessment of the Small Business Innovation Research Program states, and I quote, "The SBIR Program is sound in concept and effective in practice." The SBIR Program has created a competitive entrepreneurial environment in which small, independently-owned businesses can compete and strengthen America's high-tech economy.

While reauthorization of the SBIR Program is of the utmost importance, certain changes to the current SBIR Program contained in today's bill could in my opinion negatively affect several small businesses in our districts by stacking the competition against them with larger companies which historically have not been the focus of this innovative program.

The first issue I am concerned with in today's bill is in Section 105. The current version of the bill eliminates one of the best tools the program has to make sure we are using the taxpayers' money the best way possible. Many members of this committee continue to express concern as to how we use federal funds when it comes to research and development programs. I share that concern.

But the way the current bill is written we are creating a loophole that would, could waste time and resources for applicants and the agencies. Allowing applicants to skip phase I awards and go straight to phase II awards should be a cause for concern.

In a time when both our government and private businesses are being forced to do more with less we should be making sure that the process for awards does not waste time and resources of the

small innovator or the agencies. My amendment addresses this concern by striking the language that creates this loophole.

A fundamental premise of the SBIR Program and the main reason for its success is that it has been structured to invest modestly to explore ideas and allow the winners to emerge. The phase I step with modest funding is critical to the concept, allowing only the strongest ideas to survive in advance. Jumping directly to making large awards would squeeze out many innovative ideas that are in need of exploration while concentrating on a few that may not pan out.

Therefore, the most important issue in preserving the integrity of the SBIR Program is to require a phase I investment before jumping to phase II. Phase I of this program is a rigorous process involving more than one level of review by staff. A rigorous phase I application enables the concept to be properly vetted for relevancy to the SBIR Program and the agency. We should be encouraging this type of selection process and not allowing it to be simply passed by.

This is an amendment that is simple and straightforward. It strikes the language that allows applicants to skip phase I, and I urge members of our committee to support this amendment, and I yield back the balance of my time.

Chairman HALL. The gentleman yields back his time. I thank the gentleman for his amendment. I understand the arguments to both sides of this amendment and the importance to maintain the integrity of the program and encourage greater small business participation, but I hate to vote in the face of the National Research Council recommending against allowing companies to apply directly for phase II awards.

Indeed, allowing the companies to apply directly for phase II awards can significantly shift the balance of both awards and funding from phase II to phase—from phase I to phase II. This might crowd out small start-up businesses that can't compete directly for phase II projects.

If a company has already conducted the work equivalent to phase I on the other side, why should the government pay for this work?

Again, I understand the arguments on both sides, but I have a hard time supporting this. I will be opposing the amendment because I believe it is important to prevent wasteful spending on duplicative projects and to fund the most promising research with the most, with the greater potential for commercialization and to line up with the National Research Council.

I will oppose, and I thank the gentleman for his amendment.

Is there further discussion on the amendment?

All right.

Mr. WU. Mr. Chairman.

Chairman HALL. Yes. Mr. Wu, recognize you for 5 minutes.

Mr. WU. Thank you very much, Mr. Chairman, and I want to recognize that Mr. Tonko has worked very hard on developing his expertise in this legislation and has many thoughtful amendments to propose today. I do reluctantly oppose this amendment for one of the reasons that the chairman cited, which was that the intent when we wrote this provision into the legislation was that if the private sector has already performed the phase I work, there is no

need for the public sector, for the taxpayer to jump in and fund a repeat of that work, and it is a step to save money for the taxpayer.

And in this regard, Mr. Chairman, I am with you in that the NRC is advisory to us but ultimately we draw the lines, and I think we need to take responsibility for that, and I thank you for the opportunity to speak for a moment.

I have tremendous respect for the gentleman from New York's work on this legislation.

Chairman HALL. The gentleman's time has expired, and I want to thank the member for the amendment.

Is there further discussion on the amendment?

Mr. TONKO. Mr. Chairman, if I might just ask for further clarification. You are citing the academy's 2007, report, and I believe that they recommended not skipping over phase I. They thought that it was a critical part of especially the vetting process.

Chairman HALL. Is there other discussion?

Okay. Hearing no further discussion the vote will occur on the amendment. All in favor, say aye. Those opposed, say no.

Mr. TONKO. Mr. Chairman.

Chairman HALL. Yes.

Mr. TONKO. Could we have a recorded vote, please?

Chairman HALL. The gentleman asks for a recorded vote. All in—recorded vote called for. Would the clerk call the roll?

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?

[No response.]

The CLERK. Mr. Neugebauer?

[No response.]

The CLERK. Mr. McCaul?

Mr. MCCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

[No response.]

The CLERK. Mrs. Adams?

Mrs. ADAMS. No.

The CLERK. Mrs. Adams votes no.

Mr. Quayle?
Mr. QUAYLE. No.
The CLERK. Mr. Quayle votes no.
Mr. Fleischmann?
Mr. FLEISCHMANN. No.
The CLERK. Mr. Fleischmann votes no.
Mr. Rigell?
Mr. RIGELL. Yes.
The CLERK. Mr. Rigell votes aye.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
[No response.]
The CLERK. Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
[No response.]
The CLERK. Mr. Benishek?
Mr. BENISHEK. No.
The CLERK. Mr. Benishek votes no.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
[No response.]
The CLERK. Ms. Woolsey?
[No response.]
The CLERK. Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. No.
The CLERK. Mr. Wu votes no.
Mr. Miller?
[No response.]
The CLERK. Mr. Lipinski?
Mr. LIPINSKI. No.
The CLERK. Mr. Lipinski votes no.
Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
[No response.]
The CLERK. Mr. Lujan?
Mr. LUJAN. Aye.

The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. No.
The CLERK. Mr. McNerney votes no.
Mr. Sarbanes?
Mr. SARBANES. No.
The CLERK. Mr. Sarbanes votes no.
Ms. Sewell?
Ms. SEWELL. Yes.
The CLERK. Ms. Sewell votes aye.
Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clark?
Mr. CLARK. Aye.
The CLERK. Mr. Clark votes aye.
Chairman HALL. Are there others members who wish to vote? Are there members who wish to change their vote?
Mr. COSTELLO. Mr. Chairman.
Chairman HALL. The chair recognizes the gentleman from Illinois.
Mr. COSTELLO. Costello votes aye.
The CLERK. Mr. Costello votes aye.
Chairman HALL. Are there others?
Mr. Bucshon.
The CLERK. Mr. Bucshon is not recorded.
Mr. BUCSHON. No, ma'am.
The CLERK. Mr. Bucshon votes no.
Chairman HALL. All right. Are there other members who wish to change their vote?
All right. The clerk will report the vote.
The CLERK. Mr. Chairman, nine members vote aye, and 19 members vote no.
Chairman HALL. On this vote there were nine ayes and 19 nos. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 026 ROLL CALL NO.__2__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*		X		
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*		X		
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*				
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*				
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*	X			
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*				
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*		X		
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*				
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*		X		
6 Mr. MILLER - *NC*				
7 Mr. LIPINSKI - *IL*		X		
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*				
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*		X		
14 Mr. SARBANES - *MD*		X		
15 Ms. SEWELL - *AL*	X			
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*	X			
TOTALS	9	19		

Chairman HALL. Are there other amendments?

Mr. WU. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. Our next amendment is offered from the gentleman from Oregon, Mr. Wu. Are you ready to proceed with your amendment?

Mr. WU. Yes, sir, I am.

Chairman HALL. All right. The clerk will report the amendment.

The CLERK. Amendment number 009, amendment to H.R. 1425, offered by Mr. Wu of Oregon.

Chairman HALL. I would ask unanimous consent to dispense with the reading.

Without objection, it is so ordered, and the gentleman is recognized for five minutes to explain his amendment.

Mr. WU. Thank you very much, Mr. Chairman.

As drafted the current legislation permits one level of majority venture capital VAT companies to participate in the SBIR Program, and for three agencies, the NIH, the NSF, and the—I am sorry. The NIH, the NSF, and the DOE to participate at 45 percent for venture capital majority-owned companies.

My amendment would add NASA as the fourth agency to be permitted to have majority venture capital-owned companies at this higher level. I believe that this is appropriate, and I believe that this is where NASA and the National Space Initiative want to go and ought to go.

As you know, Mr. Chairman, and also the ranking member, NASA is winding down a significant amount of its workforce as we transition from one form of human spaceflight hopefully to another. As this wind down is occurring, at a number of NASA sites around the country there have been incubators created, and there are strong efforts, sometimes on behalf—by NASA frequently by state agencies to encourage small spinouts from NASA based on NASA technology.

I think that we ought to encourage such efforts, not just as an effort to create high-wage, private sector jobs, but also as a way of maximizing technology and maximizing innovation and helping our space program achieve its objectives by permitting a higher level of majority venture capital-owned companies to participate I believe that we promote innovation, we promote jobs, and also it saves the taxpayers some expenses when venture capitalists do, if you will, some of the due diligence that would otherwise have to be done by public agencies. It is entirely appropriate that NASA is one of the lead science agencies of our Nation, also be included with the Department of Energy, NIH, and NSF so that we can take larger steps toward an innovation economy and also one that maximizes our participation in space.

And for all those reasons, Mr. Chairman, I urge adoption of the amendment, and I yield back the balance of my time.

Chairman HALL. The gentleman yields back his time, and I thank the ranking member of the Technology and Innovation Subcommittee, for his amendment. I agree that we should add NASA to the list of federal agencies that may provide up to 45 percent of award funding to firms that have majority venture capital backing.

This amendment has the potential, I believe, to increase the quality of applications NASA receives, which could lead to better research and development. I support the amendment and urge my colleagues to do the same.

All right. Is there further discussion on the amendment?

Ms. EDWARDS. Mr. Chairman.

Chairman HALL. I recognize Mrs. Edwards, gentlelady.

Ms. EDWARDS. Thank you, Mr. Chairman.

Chairman HALL. Maryland.

Ms. EDWARDS. Thank you, Mr. Chairman. I am not so much concerned with this amendment that it would add NASA to the list of agencies. I am concerned as reflected in Mr. Tonko's amendment, the next one that we will consider, about the percentage.

And Prince George is in Montgomery County in the fourth Congressional district. Particularly in Montgomery County we are home to some of the most nimble, agile, but also small biotech firms, and what happens is that with the 45 percent award, the 45 percent level that many of those firms that are smaller firms, that are more nimble, that hire an awful lot of people, they don't really get the same kind of capacity, and I actually think that, you know, particularly for an agency like NASA to encourage the greater participation of our smaller businesses our women-owned businesses, our minority and veteran-owned businesses, that, you know, indeed, that threshold level at 45 percent really screens them out.

And so my concern is not so much that, you know, that NASA isn't a full participant in SBIR but that the 45 percent level I think does great harm to some of our smaller and more nimble companies.

And with that I yield.

Chairman HALL. The gentlelady yields back her time. I would only say to that the percentage is a ceiling. It is not a floor, and I suggest you talk with the author who may have some concessions to make that might solve the problems that you have representing your district as you do very well.

Is there further discussion to the amendment?

All right. Hearing no further discussion, the vote occurs on the amendment. All in favor, say aye. Those opposed, say no. Those opposed say, no. The ayes have it, and the amendment is not agreed to.

The CLERK. It is agreed to. The amendment is agreed to.

Chairman HALL. I have changed my mind on that. The amendment is agreed to since I have been elbowed here. And, remember, I turned 88 years old yesterday.

All right. Are there other amendments?

Mr. TONKO. I have an amendment at the desk.

Chairman HALL. All right. The next amendment is offered by the gentleman from New York, Mr. Tonko. Are you ready to proceed with your amendment?

Mr. TONKO. I am, Mr. Chairman, and happy birthday.

Chairman HALL. Thank you. The clerk will report the amendment.

The CLERK. Amendment number 027, amendment to H.R. 1425, offered by Mr. Tonko of New York.

Chairman HALL. Ask unanimous consent to dispense with the reading.

Without objection, it is so ordered.

Mr. TONKO. Mr. Chairman.

Chairman HALL. The chair recognizes the gentleman for five minutes to explain his amendment.

Mr. TONKO. Thank you. My second amendment is, again, designed to make sure we do not drastically change the fundamental purpose of this program. Although I understand the important role of venture capital or a VC firm continues to play in the SBIR Pro-

gram, I find it more important to retain the SBIR's historic and proven focus on truly small business.

At a time when our national unemployment is near nine percent we should be promoting any policy we can that creates jobs, especially jobs that strengthen our small business community, the backbone of our economy and the source of 70 percent of new jobs in our country.

My amendment does just that. My amendment reduces the allocation limits for majority-owned VC companies to 25 percent and 15 percent respectively. This is consistent with the Senate language and allows the program to better target the intended small businesses for which this program was originally designed.

VCs already see significant benefits from the SBIR Program in its present form because it is used as a vetting process for their investment decisions to reduce risk. VC investment firms have historically invested in 1 to three percent of all the businesses, business plans that they review, and those are the ones that you believe could produce revenue within fewer than 3 years.

So the SBIR Program has historically been aimed at true innovation, those bold plans and ideas that are just too risky for VC funding but are potentially game changers. It is that spirit and tradition that has provided the underpinnings of success for this program to date, and in that tradition that we should continue.

By lowering the allocation levels we will enable the program to continue to be successful in meeting the goals that Congress has set out for—to be met.

I urge members of our committee to support this amendment, and I yield back, Mr. Chair, the balance of my time.

Chairman HALL. I thank the gentleman for yielding back, and I thank the gentleman for his amendment. And while I recognize the gentleman's desire to limit the amount of funding that goes to majority venture capital-backed firms, I believe it is more important to give agencies the flexibility to award funding for the best applications, and actually that is what this bill does.

The bill enables a greater number of small businesses to compete for SBIR and STTR awards while ensuring that a majority of awards go to small businesses that don't have majority venture capital backing.

For that reason I oppose the gentleman's amendment and urge my colleagues to do the same.

All right. Are there other members who wish to discuss the——

Mr. QUAYLE. Mr. Chairman.

Chairman HALL. Yes. The chair recognizes the gentleman from Arizona.

Mr. QUAYLE. Thank you, Mr. Chairman. I agree with you that I am going to oppose this amendment, and during our hearings we had a number of different people, definitely small businesses and academics who actually have voiced that the VCs actually play a pivotal role in actually weeding out some of the potential commercialized successes in the small businesses. And this is, as we have said before, is a ceiling and not a floor, and I believe that the VCs actually play—will have the better expertise to determine whether a company at those stages will be able to be successful in the future.

And it also still does make sure that small businesses that are not VC backed get the majority of the funding, so I urge my colleagues to oppose this amendment, and I yield back the balance of my time.

Chairman HALL. The gentleman yields back. Are there other members who wish to discuss the amendment?

Mr. WU. Mr. Chairman.

Chairman HALL. Mr. Wu is recognized for five minutes.

Mr. WU. Thank you very much, Mr. Chairman, and I want to thank Chairman Quayle for his fine work, and it has been a pleasure to work with you on this legislation. And both for Chairman Quayle and Chairman Hall you are advocating a position that I have advocated in the past, and I want to recognize that and also say that when I have pushed for this, it is as an aspiration, because I hope that there are more venture-funded companies. In my view they tend to be small companies that have to give away more of their equity, they have to give away a higher percentage because they are small. And that a lot of the advocates before this committee have it exactly wrong when they are concerned that bigger businesses will be venture funded. I disagree. I think they are smaller businesses.

That being said, I also want to recognize that the statistics strongly indicate that none of the agencies would be affected by the current caps of—the proposed caps of 15 percent and 25 percent. So if we set those caps at those levels today, it would in essence not have affect on the applicant pool.

That is one reason. The second reason is that we have negotiated this for five years, and it is high time to get it done, and I think that the caps as proposed last year at 15 and 25 percent and as currently set in the Senate bill at 15 and 25 percent are probably what we can get done at this point.

And while I share with the chairman of the full chairman and the chairman of the subcommittee, their aspirations for higher participation by venture capital, I just very much want to get this bill done, and for those two reasons I intend to support the gentleman from New York's amendment to set the caps at 15 and 25 percent.

I yield back the balance of my time.

Chairman HALL. The gentleman yields back his time.

Are there others who wish to discuss the amendment?

All right. Hearing no further discussion, the vote occurs on the amendment. All in favor, say aye. All those opposed, say no.

Mr. TONKO. Mr. Chairman.

Chairman HALL. Yes.

Mr. TONKO. I ask for a recorded vote, please.

Chairman HALL. The gentleman asks for a recorded vote. The recorded vote will be held. The clerk will please call the roll at this time.

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.
Mr. Rohrabacher?
Mr. ROHRABACHER. No.
The CLERK. Mr. Rohrabacher votes no.
Mr. Bartlett?
Mr. BARTLETT. No.
The CLERK. Mr. Bartlett votes no.
Mr. Lucas?
[No response.]
The CLERK. Mrs. Biggert?
Mrs. BIGGERT. No.
The CLERK. Mrs. Biggert votes no.
Mr. Akin?
[No response.]
The CLERK. Mr. Neugebauer?
[No response.]
The CLERK. Mr. McCaul?
Mr. MCCAUL. No.
The CLERK. Mr. McCaul votes no.
Mr. Broun?
Dr. BROUN. No.
The CLERK. Mr. Broun votes no.
Mrs. Adams?
Mrs. ADAMS. No.
The CLERK. Mrs. Adams votes no.
Mr. Quayle?
Mr. QUAYLE. No.
The CLERK. Mr. Quayle votes no.
Mr. Fleischmann?
Mr. FLEISCHMANN. No.
The CLERK. Mr. Fleischmann votes no.
Mr. Rigell?
Mr. RIGELL. No.
The CLERK. Mr. Rigell votes no.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
[No response.]
The CLERK. Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
Mr. BUCSHON. No.
The CLERK. Mr. Bucshon votes no.
Mr. Benishek?
Mr. BENISHEK. Yes.
The CLERK. Mr. Benishek votes aye.

Ms. Johnson?
Ms. JOHNSON. No.
The CLERK. Ms. Johnson votes no.
Mr. Costello?
Mr. COSTELLO. Aye.
The CLERK. Mr. Costello votes aye.
Ms. Woolsey?
[No response.]
The CLERK. Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
[No response.]
The CLERK. Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye.
Mrs. Giffords?
[No response.]
The CLERK. Mrs. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Mrs. Edwards votes aye.
Mrs. Fudge?
[No response.]
The CLERK. Mr. Lujan?
Mr. LUJAN. No.
The CLERK. Mr. Lujan votes no.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. No.
The CLERK. Mr. McNerney votes no.
Mr. Sarbanes?
Mr. SARBANES. Aye.
The CLERK. Mr. Sarbanes votes aye.
Ms. Sewell?
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. No.
The CLERK. Ms. Wilson votes no.
Mr. Clark?
Mr. CLARK. No.
The CLERK. Mr. Clark votes no.

Chairman HALL. Are there others members who wish to vote? Are there any members who wish to change their vote?

Okay. The clerk shall report the vote.

The CLERK. Mr. Chairman, seven members vote aye, and 21 members vote no.

Chairman HALL. All right. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 027 ROLL CALL NO.__3__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*		X		
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*		X		
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*				
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*				
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*		X		
22 Mr. BENISHEK - *MI*	X			
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*		X		
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*				
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*				
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*				
11 Mr. LUJÁN - *NM*		X		
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*		X		
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*		X		
17 Mr. CLARKE - *MI*		X		
TOTALS	7	21		

Chairman HALL. Are there other amendments?

Mr. TONKO. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. What purpose is that? You have an amendment at the desk. The next amendment is offered by the gentleman from New York, Mr. Tonko. Are you ready to proceed with your amendment, sir?

Mr. TONKO. I am, sir.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 030, amendment to H.R. 1425, offered by Mr. Tonko of New York.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered. Recognize the gentleman on his amendment.

Mr. TONKO. Thank you, Mr. Chairman.

Section 107 as currently written, again, would make drastic changes to a program that at its core is an innovation program for small business. In its current format Section 107 would open the SBIR Program to businesses that are majority based by venture capital, hedge funds, and private equity firms with large holdings and employees in market share.

This opening up of the program, which is funded by taxpayers, could potentially crowd out small businesses most in need of funding for their innovative work.

I have a concern that the current language does not accurately reflect the way most companies use funding from VCs. We all know that one VC firm and others hardly ever make an investment of 50 percent or more into a single company. One rarely sees a single VC firm control more than a 50 percent stake in one company.

However, what you will see is multiple VC firms taking positions of 10 to 20 percent each, which when you total them could equal 70, 80, or 90 percent ownership of a single company. Under the current language that is acceptable. I would argue that if the intent of this bill is to let VC-supported companies have access to their program but still allow the founders of the company to have control of their company, then we could, we should draft the language in a way that accurately defines how these types of firms work and have ownership in small companies.

My amendment addresses these concerns by saying that the total amount of ownership of a company by VCs, hedge funds, or equity firms cannot go beyond 50 percent. I believe this amendment gives the founders of the small business more bargaining power against private sources of funding like VCs.

According to my own constituents, having the current limit on VCs in the SBIR Program has been one of the best tools to keep VCs from immediately seizing more than 60 percent of that given company.

I urge members of our committee to support this pro-small business amendment, and I yield back the balance of my time, Mr. Chair.

Chairman HALL. The gentleman yields back his time, and I thank the gentleman for his amendment. Actually, I disagree with the gentleman's amendment because for one thing, it would prevent any majority venture capital-backed firm from competing for SBIR and STTR awards.

H.R. 1425 enables majority venture capital-backed firms to compete for a limited percent of awards, which will increase, I think, the potential pool of applicants and may result in stronger proposals.

I oppose the gentleman's amendment and strongly urge my colleagues to do the same.

And I want to thank the member for his amendment.

Is there further discussion of the amendment?

All right. Hearing no further discussion, the vote occurs on the amendment. All in favor, say aye. Those opposed, say no. Apparently in my opinion the no's have it, and the amendment is not agreed to.

Are there other amendments?

Mr. TONKO. Mr. Chair, I have an amendment at the desk.

Chairman HALL. The next amendment is offered by the gentleman—by the gentleman from New York, Mr. Tonko. Are you ready to proceed with your amendment?

Mr. TONKO. Yes, I am, Mr. Chair.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 028, amendment to H.R. 1425, offered by Mr. Tonko of New York.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered. I recognize the gentleman on his committee——

The CLERK. Amendment.

Chairman HALL. —on his amendment.

Mr. TONKO. Thank you, Mr. Chair. The purpose of this amendment is to protect the program from being open to foreign-owned VC, hedge funds, and equity firms. My amendment simply prevents foreign-owned firms from participating in the program.

We should be doing everything we can to encourage American businesses and American investments into an American bit of ideas and technologies. After all, we must continue to strive to make it in America. We should not be subsidizing foreign capital and outside governments to use federal resources to develop an idea, then run back to their company of origin to commercialize that product.

With limited resources we must prioritize American businesses and American growth above foreign-owned companies. This language matches the Senate bill and makes sure that the program is targeted at keeping American innovation here at home.

I urge members of the committee to support his amendment and yield back the balance of my time, Mr. Chair.

Chairman HALL. I thank the gentleman. I have some concerns about the gentleman's amendment.

First, the bill already prevents businesses with more than 500 employees from participating in the SBIR and the STTR Programs. Second, the companies have to have at least 51 percent U.S. ownership to participate in SBIR and STTR Programs based on existing SBA regulations.

And finally I am concerned that the amendment would prevent small businesses from competing for SBIR awards if they are partially owned by a large business, even if the ownership stakes were miniscule.

Again, I have some concerns about this amendment. Would the gentleman clarify his intent with the amendment?

Mr. TONKO. Basically it is to make certain that American investments are given the priority here and that we do not allow it to go forward with the foreign investments that might be made from foreign-owned VC firms.

Chairman HALL. All right. I thank the gentleman. We think that is already covered. I will be opposing the amendment and urge my colleagues to do the same.

Are there others who wish to be recognized?

Mr. RIGELL. Mr. Chairman.

Chairman HALL. The gentleman is recognized for five minutes.

Mr. RIGELL. I just have—Mr. Chairman, thank you. I just had a question. The point that the gentleman makes I think is an important one, and there seems to be some, at least lack of clarity on whether foreign ownership is allowed or not, and it would help me to make a better decision if I fully understood the issue. So if either, Mr. Chairman, if you could or the gentleman who presented the bill could either—the amendment could provide clarification on that, I would be much appreciated on that. Thank you.

Chairman HALL. I thank Mr. Rigell. I would recognize anyone who wants to give further clarification on the bill.

Hearing none, is there other—are there others to discuss the amendment?

Hearing no further discussion, the vote occurs on the amendment. All in favor, say aye. Those opposed, say no. The no's have it, and the amendment is not agreed to.

Mr. TONKO. Chairman, I request a recorded vote.

Chairman HALL. The gentleman requests a recorded vote. The clerk will call the roll.

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. No.

The CLERK. Mr. Sensenbrenner votes no.

Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?

[No response.]

The CLERK. Mr. Neugebauer?

[No response.]

The CLERK. Mr. McCaul?

Mr. MCCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

Dr. BROUN. No.

The CLERK. Mr. Broun votes no.

Mrs. Adams?
Mrs. ADAMS. No.
The CLERK. Mrs. Adams votes no.
Mr. Quayle?
Mr. QUAYLE. No.
The CLERK. Mr. Quayle votes no.
Mr. Fleischmann?
Mr. FLEISCHMANN. No.
The CLERK. Mr. Fleischmann votes no.
Mr. Rigell?
Mr. RIGELL. No.
The CLERK. Mr. Rigell votes no.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
[No response.]
The CLERK. Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
Mr. BUCSHON. No.
The CLERK. Mr. Bucshon votes no.
Mr. Benishek?
Mr. BENISHEK. No.
The CLERK. Mr. Benishek votes no.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
Mr. COSTELLO. Aye.
The CLERK. Mr. Costello votes aye.
Ms. Woolsey?
[No response.]
The CLERK. Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
[No response.]
The CLERK. Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye.
Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.

The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
[No response.]
The CLERK. Mr. Lujan?
Mr. LUJAN. Aye.
The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. No.
The CLERK. Mr. McNerney votes no.
Mr. Sarbanes?
Mr. SARBANES. Aye.
The CLERK. Mr. Sarbanes votes aye.
Ms. Sewell?
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clark?
Mr. CLARK. Aye.
The CLERK. Mr. Clark votes aye.
Chairman HALL. The clerk will report the——
The CLERK. Mr. Chairman, 10 members vote aye, and 19 members vote no.
Chairman HALL. All right. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 028 ROLL CALL NO.__4__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*		X		
3 Mr. SMITH - *TX*		X		
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*		X		
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*				
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*				
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*		X		
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*				
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*				
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*				
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*		X		
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*	X			
TOTALS	10	19		

Chairman HALL. Are there further amendments?

Mr. SMITH. Mr. Chairman.

Chairman HALL. The gentleman from—Mr. Smith from Texas.

Mr. SMITH. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. All right. The next amendment is offered by the gentleman from Texas, Mr. Smith. Are you ready to proceed with your amendment?

Mr. SMITH. Yes, I am, Mr. Chairman.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 018, amendment to H.R. 1425, offered by Mr. Smith of Texas.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered. The gentleman is recognized for five minutes on his amendment.

Mr. SMITH. Thank you, Mr. Chairman. This amendment is a direct result of concerns raised by one of my constituents during a town meeting a couple of months ago. Maybe this is how democracy is supposed to work.

A Department of Energy laboratory required his small business to pay them 90 days up front for a joint research project under a Work For Others Agreement. For example, the small business enters into a Work for Others Agreement with an Energy Department laboratory for a 12-month effort valued at $240,000. The small business could be required to pay $60,000 in advance to meet the 90-day requirement.

This rule creates a difficult cash flow situation for typical small businesses and makes it harder for them to partner with the national laboratories to bring new technologies into the marketplace.

I wrote the Department of Energy on behalf of my constituent to ask them to reexamine this 90-day policy, and they did, and I want to compliment the DOE for changing their regulation from 90 days to 60 days for advanced payments. They made this change only two weeks after receiving my letter.

However, I believe that an upfront cash advance of 30 days is a more reasonable policy, and that is what my amendment would require for a small business innovative research project. A 30-day cash advance from the small business is more in line with how bills actually get paid, on a monthly basis. A 30-day advanced payment addresses concerns raised by federal agencies about maintaining a positive cash balance while also lessening the burden on small businesses.

Small businesses are the engine that drives our economy. Given our current fiscal crisis, it is more important than ever that we eliminate roadblocks to job creation. This amendment helps achieve that goal, and I urge my colleagues to support it and yield back the balance of my time.

Chairman HALL. I thank the gentleman, and I understand that you seek to ensure that small businesses are not overburdened by the Federal Government regulations that require them to advance a great deal of money upfront. At a time when many businesses are strapped for cash to operate with, I think the gentleman's amendment provides some relief for those businesses that will participate in the programs of the bill.

I support this amendment and urge my colleagues to do the same.

Is there any other discussion on the amendment?

Ms. JOHNSON. Mr. Chairman, I——

Chairman HALL. The chair recognizes the gentlelady from Texas.

Ms. JOHNSON. Thank you, Mr. Chairman. I support the intent of this amendment. We do need to do all we can to encourage small businesses to team up with our national labs. The scientists and

engineers in our national labs represent a tremendous resource and expertise that will further the ingenuity of our small businesses, and I applaud the gentleman for offering this amendment.

Thank you.

Chairman HALL. The gentlelady yields back her time, and I want to thank the amendment and the member for this amendment.

Is there further discussion on the amendment?

Hearing none, all in favor, say aye. Those opposed, say no. The ayes have it, and the amendment is agreed to.

Are there other amendments?

Mr. LUJAN. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. Our next amendment is offered from the gentleman from New Mexico, Mr. Lujan. Are you ready to proceed with your amendment?

Mr. LUJAN. I am, Mr. Chairman.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 016, amendment to H.R. 1425, offered by Mr. Lujan of New Mexico.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered.

Mr. LUJAN. Thank you, Mr. Chairman. This——

Chairman HALL. The gentleman is recognized for five minutes to explain his amendment.

Mr. LUJAN. Thank you, Mr. Chairman. This amendment would increase the set-aside amount to STTR over three years. I am introducing this amendment to help bridge the divide separating small businesses from our R&D institutions.

Over the years the private sector has become increasingly isolated from our research institutions like universities and our national labs. This does not serve our Nation well. It reduces the main commercial advantage of funding and performing basic research in the country. Other countries are taking our R&D output and turning new scientific discoveries and newly-developed technological capabilities into new businesses and new products.

We need to remove the isolation of these two communities in order for the U.S. to be more competitive. STTR requires partnerships between small businesses and research institutions and would encourage these relationships, which is why I think STTR Programs need to be increased.

Furthermore, this amendment makes economic sense as it would yield higher commercialization output. At the hearing the Technology and Innovation Subcommittee held a few weeks ago Professor Siegel testified that studies have shown that a university connection to an SBIR project substantially increases the likelihood of successful commercialization.

So by putting more funds into STTR projects which require such partnerships we'll be positioning the SBIR and STTR portfolio to generate more jobs and a better economy.

As we truly understand, Mr. Chairman, the importance of partnering up small businesses with the research and development capabilities and capacity of the United States, especially those the engineers most talented in our Nation with our universities and national labs. It is incumbent that we truly look to programs that

have shown some success and that really positioned U.S. companies to take advantage of a technological revolution that we need to reinvigorate with the United States.

With that, Mr. Chairman, I urge the adoption of this amendment.

Chairman HALL. The gentleman yields back his time. I thank the gentleman for his amendment. I am concerned that the gentleman's amendment increases the size of the STTR Program by 100 percent over the course of three years. Growing the program from approximately 800 million a year to 1.6 billion a year at a time when most agencies' programs are facing flat budgets, an additional 800 million would be taken from the extramural research budgets of our federal agencies.

I am just not confident this big change is justified by any data that we have, current have for the STTR Program. Therefore, I must oppose the gentleman's amendment.

Is there other discussion?

Hearing no further discussion, the vote occurs on the amendment. All in favor, say aye. Those who oppose, say no. In the opinion of the chair the no's have it. The no's have it, and the amendment is not agreed to.

Are there other amendments?

Mr. MR. TONKO. Yes, Mr. Chairman. I have an amendment at the desk.

Chairman HALL. The next amendment is offered by the gentleman from New York, Mr. Tonko. Are you ready to proceed with your amendment?

Mr. TONKO. I am, Mr. Chairman.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 029, amendment to H.R. 1425, offered by Mr. Tonko of New York.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered. The gentleman is recognized for five minutes to explain his amendment.

Mr. TONKO. Thank you, Mr. Chairman. The intent of this amendment is to make certain that phase II recipients can continue to use state and local organizations for commercialization assistance.

It also ensures that they are aware that this flexibility is still possible even if agencies choose to contract with a national vendor for these services. It is my belief that state and local representatives are generally in a better position to assist companies through commercialization than a national contractor which may not be aware of the commercialization support services that are supported by and available through state technology-based economic development programs.

State and local representatives can also introduce companies to other sources of collaboration and many other aspects required on that path to commercialization.

While I believe that the flexibility language in this section allows recipients to exercise this option, I am still concerned that they may not be aware of these options.

However, I understand that there is a concern about the best way to address this issue and that the current amendment might

not be the best solution. Mr. Chairman, I know that staffs have been talking, and if you would be willing to work with my office to address this issue, I would consider withdrawing the amendment.

Chairman HALL. I thank the gentleman, and I think the goal of the amendment was to ensure the state-based organizations with expertise and commercializations are able to support small businesses who have received SBIR awards, and I do certainly agree to work with you, and I think you have a good thrust, and we will—I certainly personally will, and I think this side of the docket will work.

And I accept the fact that you withdraw the amendment at this time.

Mr. TONKO. Yes, Mr. Chairman.

Chairman HALL. We will work together at a later time.

Mr. TONKO. Absolutely. I move to withdraw the amendment.

Chairman HALL. The amendment is withdrawn.

Are there other amendments?

Mr. TONKO. Thank you.

Chairman HALL. Thank you, sir.

Ms. JOHNSON. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. The next amendment is offered by the gentlewoman from Texas, Mrs. Johnson. Are you ready to proceed with your amendment?

Ms. JOHNSON. Yes, Mr. Chairman.

Chairman HALL. All right. The clerk will report the amendment.

The CLERK. Amendment number 031, amendment to H.R. 1425, offered by Ms. Eddie Bernice Johnson of Texas.

Chairman HALL. I ask unanimous consent to dispense with the reading.

Without objection, it is so ordered. The chair recognizes Mrs. Johnson on her amendment.

Ms. JOHNSON. Thank you, Mr. Chairman. I am offering this amendment today along with Congresswoman Wilson, and will ensure—this will ensure that the agencies participating in the SBIR Program have the resources they need to conduct the necessary outreach activities.

As we all know, the SBIR Program is an important program for fueling technological innovation and spurring job creation. I believe that innovation can come from anywhere and that all small businesses, not just a small subset of small businesses, are capable of developing new technologies, and I think that our chances of getting game-changing innovation are significantly increased if SBIR applicant pool is larger and more diverse.

For these reasons I believe we need to do a better job of reaching out to small businesses that have traditionally been under-represented in this program. This amendment does just that. It provides the SBIR agencies with the resources they need to conduct outreach to small businesses and geographical areas that have been under-represented in the program, including rural areas and areas with unemployment rates that exceed the national average. And it facilitates outreach to small businesses owned by women, minorities, and veterans.

This amendment takes important substantive steps towards ensuring that SBIR Program is available and accessible to all small businesses in the country. And in addition, as many of you are aware, one of the four stated Congressional objectives of SBIR Program is to increase participation by women and minority-owned businesses. This certainly has not been achieved.

In its 2008 evaluation of the program, the National Research Council found that the program was having serious problems achieving this objective. It recommended that the targeted outreach be developed to improve the participation rates of women and minority-owned small businesses. This amendment follows through on its NRC recommendation.

And I just want to take a moment to clarify a few points about this amendment. It is cost neutral. Congresswoman Wilson offered a very reasonable outreach amendment at the subcommittee markup based on a provision that was included in the bipartisan House Bill from last Congress. That amendment was rejected on a party line vote based on negligible costs associated with the program.

Based on the feedback received at the subcommittee markup, we developed a cost-neutral proposal. This does not include a mandate for agencies to spend money on outreach. Only those agencies that choose to participate in the Administrative and Oversight Expenses Pilot Program will be required to set aside some money for these activities.

The amendment also includes a waiver which allows SBA to exempt an agency from the requirement if it is appropriate and necessary to do so. While language was added at the subcommittee markup to encourage applications from the under-represented small businesses, I firmly believe that we need to take our outreach efforts beyond a mere encouragement.

If we truly are committed to the stated Congressional goal of increasing participation by under-represented groups in the SBIR Program, we need to provide agencies with a formal mechanism to conduct outreach and technical assistance and give them the resources to do it.

Chairman Hall, as you know, this is a very important issue to me, and it should be an important issue to all the members of this committee. This amendment is motivated by nothing but the best intentions and represents a good faith attempt by me and Ms. Wilson to address the outreach challenges and to be as responsive as possible to concerns we heard from the other side of the aisle in the subcommittee markup.

And so I do urge you to consider the adoption of this amendment, and I yield back the balance of my time.

Chairman HALL. Thank the gentlelady. She yields back the balance of her time, and the chair thanks the gentlewoman from Texas for her amendment.

The bill provides agencies the ability I guess for the first time to use some of their program funding to support outreach and other administrative activities, and I like the way the bill is currently worded, allowing agencies the ability to choose how these funds might be used.

Each year an agency could change how it wanted to spend. If it needed to look into some fraud allegations, it could do that. If it

needed to provide targeted outreach to a certain group, it could that, and if it really wanted to boost commercialization outreach, it probably could do that as well. Or it could do a little bit of all of it.

However, I have some problems, and I am inclined to oppose the ranking member's amendment because it would require a certain amount of funding to always go towards outreach to certain specific groups.

And another thing, there are others that ought to be added to those groups, and I think outreach is important, but I don't like making it mandatory when it is already permitted. Unless we could work together and make some changes on this, and we have discussed this personally. I wanted instead of "shall", "may" go to those groups, and if we have specific groups, there would be some groups that I would like to add to that group.

If the gentlelady wants to do that, or you can have the alternative that we can have the roll call vote as you choose.

Ms. JOHNSON. Mr. Chairman, this is too important to just shaft it I think, so I would love to work with you for some acceptable wording. I would like to know the additional groups you want to add.

Chairman HALL. Specifically I want to add the Disabled Veterans, and they have been turned down in other——

Ms. JOHNSON. We do have veterans listed. You want to add the word disabled?

Chairman HALL. And other disabled groups.

Ms. JOHNSON. That is acceptable to me to add disabled groups. I know that the intent is not yours, but it is the intent of the behavior behind whoever it is is to just kind of push this aside. This was one of the original intents of this legislation, and out of the spirit of attempting to be cooperative, I am going to agree to work with you on any final wording of this provision.

I don't think that my amendment is unreasonable, but I am willing to work with you and whoever is pushing you to make this more acceptable.

Chairman HALL. It is just the things we discussed that I don't like making it mandatory actually when it is already permitted, but I would listen to others.

Are there others who want to be heard?

Now, what is your request, Ms. Johnson? That we pull it down and work together on it as we go, or do you want to——

Ms. JOHNSON. Yes, we can do that.

Chairman HALL. Do you want to have further discussion at this time?

Ms. JOHNSON. Well, if anybody else wants to have discussion, I have no objection to that.

Chairman HALL. Mr. Rohrabacher, the chair recognizes you for five minutes.

Mr. ROHRABACHER. Mr. Chairman, I join with you in your commitment to making sure if there is a list that the list be a little bit more comprehensive than what was being presented.

I would suggest that people with disabilities, I know there is a company in my district, the Sara Corporation, that is run by a man who is in a wheelchair, a paraplegic, and he has had to overcome

great obstacles to the success of his small business. And it is a research company that falls really within the arena of what we are talking about today, and I am very proud to have worked with him in the past and certainly I would think if we make a list, which is a big question, should we have lists of people of who specifically to reach out to rather than just trying to say we are going to be fair to everybody, certainly people with disabilities should be on that list, and I have an amendment to that effect that would be the last amendment today, which may or may not be necessary, depending on your discussion at this moment.

Thank you.

Chairman HALL. Would the gentleman——

Mr. ROHRABACHER. Yield back.

Chairman HALL.—yield back? I guess we want to be positive that it is permissible and not mandatory. Does that——

Ms. WILSON. Mr. Chairman.

Chairman HALL. Or do you want to work toward a solution?

Ms. JOHNSON. Well, Mr. Chairman, I would like to work toward a solution if it is just permissible, that is permissible now, and that hadn't brought the results that this recent legislation had intended.

I have no problem with having Mr. Rohrabacher's amendment which adds to women, minorities, veterans, disabled, and who else? And 501, I mean, 504, which is access for disabled persons.

Chairman HALL. I still have the problem with being mandatory. If it is "may" instead of "shall", I would withdraw my opposition to it, but if it is not, well, then the board could vote, the committee could vote on it.

Mr. MCNERNEY. Mr. Chairman.

Chairman HALL. Yes, sir.

Mr. MCNERNEY. Maybe you would recognize.

Chairman HALL. The chair recognizes the gentleman.

Mr. MCNERNEY. Well, I certainly appreciate your sentiment about including disabled veterans, very important, and other groups that might need help, but I must stick with the ranking member on the mandatory part of this. If it is just, if it is not mandatory, people aren't going to do it, and I think the mandatory part will—it has shown, it has been shown to be effective. There is groups that will be impacted, and I strongly urge my colleagues to consider how important it is to outreach to groups that may need help getting into the program.

With that I yield back.

Chairman HALL. I thank the gentleman. This committee has gone through bills where we attempted to add disabled groups, and they were turned down. I just think it is so important that they not eliminate of all the groups in the world, particularly at a day and time like this, disabled veterans who might want to apply.

So if——

Ms. WILSON. Mr. Chairman.

Chairman HALL. What is the gentlelady's wishes?

Ms. WILSON. Mr. Chair.

Chairman HALL. Ms. Wilson, the chair recognizes Ms. Wilson.

Ms. WILSON. Thank you, Mr. Chairman, and thank you, Ranking Member Johnson.

I appreciate the opportunity to speak today, but I must say that I am disappointed. I am disappointed that we could not resolve this issue at the subcommittee level before a full committee markup, and I will be more disappointed still if we cannot pass this amendment today.

Three weeks ago in the subcommittee markup of this bill I offered an amendment similar to the one we are discussing now. It was simple. It was eight pages of identical text, word for word, that was included in last year's reauthorization of the SBIR and STTR Programs, reauthorization that passed the House easily by 300 to 86, 41 vote. We all came to serve in the 112th Congress to create jobs, jobs, jobs. This is the Nation's number one issue.

I was shocked to find out given the non-controversial nature of last year's bill that a significant portion of it was eliminated before we even heard it this year. Particularly the section establishing an outreach program at the Small Business Administration that would attract small businesses owned and controlled by women and minorities into the SBIR and STTR Programs.

To remedy that I offered my amendment in subcommittee that reinserted the deleted text from last year's bill. The only concern I heard voiced before my amendment was voted down across partisan lines in subcommittee was that it was not revenue neutral. Well, I am back.

Ms. Johnson and I have solved that problem together, and we have come here today to ask your support for this amendment. This amendment achieves the same goal as the program that was eliminated from last year's bill, and it does so in a revenue neutral way.

This is an important program. One of the stated objectives of the SBIR Program is to foster the participation of women and minority-owned firms and technological innovation. Unfortunately, a 2008 assessment of the program by the National Research Council showed that federal agencies involved in the SBIR have not been successful in meeting this goal. At the National Science Foundation the number of women-owned businesses receiving awards has remained flat for the past several years. Results when analyzing minority-owned firms receiving SBIR funds are even more troubling.

Awards have stagnated across every agency, and at DOD the number has actually declined over time. This amendment here today addresses these concerns. It helps the SBIR Program meet its objectives; jobs, jobs, jobs.

Small businesses serve a vital role in our community. They are innovative and more often than not the principle source of new jobs. You never know where the next big idea will come from, and we must all do what we can to support the innovative potential of all small businesses, and an innovative potential within all of our communities.

To not approve this amendment would ignore and disenfranchise an important segment of our communities. It would deny access to jobs for those in rural areas, transportation-challenged communities, grandmothers, young people. All of us need jobs. My district has an unemployment rate that exceeds the national unemployment rate. Anything that we can do to help create jobs I would appreciate it.

I urge you to support this amendment. Jobs, jobs, jobs.

Thank you, Ms. Johnson, and thank you, Mr. Chair.

Chairman HALL. The gentlelady yield back her time.

We are needing to get on closer to a vote on this. Is there anyone else? I don't want to deny anybody the right to speak.

Ms. JOHNSON. Yes, Mr. Chairman.

Chairman HALL. I recognize the gentlelady from Texas.

Ms. JOHNSON. As we have discussed this this morning, it is my great intent to do all I can to work with you, Mr. Chair, as the leader of this committee, but the more I think about it the more it is very difficult for me to put language in here that means nothing.

We either want to do it, or we do not want to do it. It is not—it doesn't take a rocket scientist to understand the intent of this bill and all we are trying to do is reach that intent so it can be meaningful to this Nation.

So I would just simply ask for an up or down vote on the amendment as submitted.

Chairman HALL. All right. The gentlelady yield back her time.

Mr. WU. Mr. Chairman.

Chairman HALL. Yes. Who seeks?

Mr. WU. Mr. Chairman.

Chairman HALL. Mr. Wu.

Mr. WU. Thank you very much.

Chairman HALL. The chair recognizes you for five minutes.

Mr. WU. Thank you very much. Now that it is clear that our ranking member intends to seek a recorded vote, I do want to speak on this before we vote.

It is very important. I have not always been a strong proponent of such provisions, but I want to speak very strongly on behalf of the gentlelady's proposal.

First of all, it is revenue neutral, which was the primary objection which was raised at the subcommittee level, and that concern has been addressed.

More importantly, I take it as good faith that it has been explained to me that there are members of the majority who are concerned that a list of some individuals necessarily excludes other individuals, other groups, and I understand that. And why should we pick out some groups.

This is one of those fairness questions which is very difficult to address, but I have come to terms with this in the following way. It is not that we pick out some groups at the disadvantage of others, but historically is the case that some programs and some subcultures, if you will, some business communities, some professions, have been going to certain groups and not others.

And I don't necessarily think of this as any mal-intent. There may be, and I don't think there is any bad intent on the part of anyone in the development of these patterns.

What tends to happen is human nature. We look for people who are roughly like us or even if not intentionally doing that, we travel in certain circles, and when we look for folks, we tend to find folks in those circles. It is not a bad intent. It is human nature. That is how personal habit, business practice, professional practice tends to work.

It is uncomfortable to push outside of those circles, and that is true of all of us. I think the gentlelady's amendment, like other efforts like it, in its best sense is a strong effort to push us just a little bit beyond our standard comfort levels so that we will reach out to folks who have not been historically included. And once they are included, then even if we revert to those very human comfort levels, at least a few more groups have been included, even if we drop those provisions in the future.

I think that is very, very important, and for those reasons I intend to support the gentlelady's amendment today. I do wish that the ranking member and the chairman could work this out, but it seems like we are at logger heads, and well, I yield back the balance of my time.

Mr. CRAVAACK. Mr. Chairman.

Chairman HALL. The gentleman yields back.

Who seeks recognition?

Mr. CRAVAACK. Mr. Chairman, Chip Cravaack, Minnesota, sir.

Chairman HALL. Mr. Cravaack.

Mr. CRAVAACK. Point of question. Does the current amendment in its current form exclude disabled American veterans?

Chairman HALL. It includes all veterans. It doesn't specify disabled. We went through that situation with the Competes bill, and they sent that to the Senate and they took disabled veterans out and sent it back. And we tried to work with them. At that time we were told we won, and I don't want to get into that but we don't want to go for a mandatory solution here. We are not denying anything. I prefer to retain full agency flexibility but not mandatory oversight. We have a philosophical difference here about how best to encourage outreach, and I am willing to let it go to a vote.

Mr. QUAYLE. Mr. Chairman?

Chairman HALL. The gentleman from Arizona?

Mr. QUAYLE. Mr. Chairman, thank you very much.

Mr. CRAVAACK. I yield back my time, sir. Thank you.

Mr. QUAYLE. The Ranking member and the gentlelady from Florida have laudable goals for increased participation for those groups that are underrepresented in the SBIR and STTR programs. And during the Subcommittee hearings and markups that we had, one of the things with the gentlelady from Florida's amendment that we did have a problem was that it wasn't revenue neutral. Now it is changed. It is revenue neutral, but it does have these mandates on the agencies that I am not comfortable with. And I think Chairman Hall really elucidated on that subject because we don't want the agencies to have to be basically hamstrung to be told how they use their administrative budgets accordingly. I think that they should be able to have the flexibility to address their concerns how they best see. And I think that the goals of this are good, and that is why we already have in the legislation where we require federal agencies to encourage applications from companies who have been historically underrepresented in the SBIR and STTR programs. So I will be opposing this amendment, but I do understand the Ranking Member's position and the gentlelady's from Florida. I just fundamentally disagree with it. Thank you. I yield back.

Ms. JOHNSON. Could I just ask for some clarification?

Chairman HALL. I recognize you for as much as you have to use of five minutes.

Ms. JOHNSON. Thank you very much. The last thing I want to do is be an irritant, but I do feel very strongly that opportunities are noticed. This does nothing but request that they make an effort for outreach. It does not mandate to do anything as a result of that unless they find of course that through oversight there has not been an opportunity. It goes to the grain of many people to offer equal opportunity. I understand that. But historically in this Nation, it has been a real strong pattern that opportunities have not been offered and outreach has not been made, and that is all this does. It does not mandate that they do anything but be sensitive to it and offer that opportunity. Of course there are some who still might object to that, but the intent, the original intent of this legislation, that was a basic intent. And you know, there are a lot of things I do not understand, and I will admit to that. I do not understand the objection to this amendment. But I feel negligent if I do not call attention to the intent that this legislation set out to do and that was to be inclusive.

Mr. QUAYLE. Will the gentlelady yield for——

Ms. JOHNSON. Yes, I will yield.

Mr. QUAYLE. I just have a question. If it's not a mandate, then you shouldn't have any objection to the Chairman's changing of the word from shall to may.

Ms. JOHNSON. The difference is it is a waste of language to put it in here to me. They may do that now. This is a reminder that they shall make an opportunity to notice it.

Mr. QUAYLE. Will the gentlelady yield?

Ms. JOHNSON. Yes.

Mr. QUAYLE. But if it isn't a mandate, a "shall" is a mandate. A "may" is not a mandate. So if it is not a mandate——

Ms. JOHNSON. Sir, let me just point this out. For 38 years I have been in public service, and I do know the difference between "shall" and "may". May is always out there, whether it is written or not. May has ruled this Nation. "May" has been an opportunity for anybody to do anything they wanted to do. But it has not happened under "may". And that is the only reason why "shall" reaches for opportunities for outreach is put here. It doesn't say you have got to give these people anything. But it does sensitize an agency to be sure that they have looked at it, and that is all it does. And if you look at the history of all of this, you know—I don't play with this stuff and I don't do this for the purpose of trying to be insulting. It is a factual thing that women, minorities, veterans have not been included. Perhaps they are not assertive enough, and many of them are not assertive because they never had the opportunity. But if there is an extra sheet of paper put there saying, you know, this is open to you, then that is outreach. They frequently do put newspaper announcements. Many of them are putting a statement of equal opportunity, and that is usually enough. When people feel there is an equal opportunity, they will apply. If they don't, take it from me, I am a 75-year-old black woman, and if I feel I am going to be insulted, I pass it on by. But if I think there is an equal opportunity and I can qualify, I might seek it. That is all this does. I am from Waco, Texas. I understand all this. I have lived it.

Mr. WU. Will the gentlelady yield for——

Ms. JOHNSON. Yes.

Mr. WU. With the consent of the Ranking Member, I would like to offer a second-degree amendment to the gentlelady's amendment and include the words "persons with disabilities" to the gentlelady's amendment.

Ms. JOHNSON. That is accepted. I just said that to Mr. Rohrabacher. I have no objection to anybody who has been overlooked to get a notice that they are welcome to apply.

Mr. ROHRABACHER. Mr. Chairman?

Chairman HALL. The gentlelady's time has expired several times——

Ms. JOHNSON. If I need some more——

Chairman HALL. And I am going to give it to you, too, if you ask for it. Mr. Rohrabacher is recognized.

Mr. ROHRABACHER. Well, just to make my position clear, I personally and philosophically believe that such lists are not consistent with the way I think we should have honest and open government and fair government. Making lists of specific people is wrong because there are a lot of people who are suffering in this country and struggling in this country, and we should not be looking, reaching out to them, based on their race or their sex or anything else.

Now, somebody with disabilities can be of any sex and any race, and the fact is we know that someone with a disability we absolutely are aware that that person has gone through struggles. But when you try to say we should reach out to people and put on a list of those people who are of a certain race or are female as compared to male, we may be reaching out to people who have absolute benefits and actually have an advantageous position over other people who are struggling to get those same contracts.

I mean, if you have a situation where someone comes from a very poor family and has struggled all their life but you are going to reach out to someone else because they happen to be of a minority race but their family is very wealthy, what we are doing is giving the advantaged person an even more advantage. And that is why it is not proper to go about making racially based decisions. If we have lists, we might as well just have a list and bring it down to what is really meant here. We can reach out to anybody but white males.

Ms. JOHNSON. Would the gentleman yield?

Mr. ROHRABACHER. Not quite yet. Let me finish my point. I will be happy to. Why don't we just eliminate all this extra verbiage and just say that we want the government to reach out to everybody except white males? Why we wouldn't do that, because it would obviously be racist. Well, it is racist to do this in the first place. My recommendation was people with disabilities because we know that whoever is being helped is someone who actually has gone through a personal life struggle, but we don't know whether they are black Americans or Hispanic Americans or whatever. They could come from very wealthy families in competition with a white male who maybe came from a very deprived family.

Ms. JOHNSON. Will the gentleman yield?

Mr. ROHRABACHER. Yes, I certainly will. Go right ahead.

Ms. JOHNSON. Mr. Chairman——

Chairman HALL. Do you yield to the gentlelady?

Mr. ROHRABACHER. Yes, I did.

Chairman HALL. All right. The gentleman yields. I think you have about 1–1/2 minutes left.

Ms. JOHNSON. Okay. I will try to be brief. I never wanted this to come to the point of this kind of discussion, but it probably is necessary. And this does not mean to reach out to everybody but white males, but there are a lot of white males that are disabled and veterans. However, if you look at this history of this Nation, it wouldn't have to be any outreach if there was anything but white males getting these opportunities. This is only a way of saying make an opportunity, but let the people other than white males and white males, too, because they already know that is who is getting it, to let them know that they can take advantage of these programs.

It is amazing to me, absolutely incredibly amazing, why this came to this point. It reinforces why we need it in the first place. But the more I see the resistance, the more it concerns me that somewhere in this Committee we have lost track of what this legislation was ever meant to be. But nonetheless, thank you, Mr. Rohrabacher. We have served on this Committee together in the 19th year, and this is the first time we have gotten into a discussion where we had to talk about white males versus the rest of the world. Thank you.

Chairman HALL. The gentlelady yields back her time. Does the gentleman from California yield back your time?

Mr. ROHRABACHER. Well, let me just note that at no point do I ever suggest that it is acceptable to judge people by their race, and whatever one's definition of racism is, it has to be including people who would judge others by their race. I yield back the balance of my time.

Chairman HALL. The gentleman yields back his time.

Mr. LUJAN. Mr. Chairman.

Chairman HALL. Who seeks recognition? The gentleman from Arizona?

Mr. LUJAN. From New Mexico, Mr. Chairman.

Chairman HALL. All right, recognizes—we have a vote on and we have discussed this thing and discussed it, but I would like to hear from you if you would quickly give us a 5-minute answer in about 2 minutes.

Mr. LUJAN. Mr. Chairman, I appreciate that. I would like to ask unanimous consent to accept Mr. Wu's secondary amendment.

Chairman HALL. Excuse me. Go ahead, sir.

Mr. LUJAN. Mr. Chairman, I would like to ask unanimous consent——

Chairman HALL. You have more than five minutes now. We don't have a vote on I am told.

Mr. LUJAN. Mr. Chairman, I would like to ask unanimous consent that we accept Mr. Wu's secondary amendment.

Chairman HALL. Is there objection? I have no objection to his secondary amendment.

Mr. LUJAN. Thank you, Mr. Chairman.

Chairman HALL. Is there objection? Does the Chair hear objection? Chair hears none.

Mr. LUJAN. Mr. Chairman, with that being said, again, just to remind everyone here, I appreciate where the discussion went to really talk about veterans. To say that, we should not require agencies to reach out to veteran-owned businesses with the sacrifices that they make every day of their lives and what they did for this great Nation of ours? To see what we can truly do to make sure that they are going to be included? Simply, as the amendment says, to reach out and to provide technical assistance to provide a foundation for these companies, for these entrepreneurs, to be able to strengthen this great economy of ours. I think it is sad if we don't go down that line. We should do all that we can do to reach out to some of these organizations. And again, I appreciate that we have been talking about veteran organizations, veteran groups, veteran-owned businesses, veteran entrepreneurs to see what we can do to reach out and work with them and get them included here, Mr. Chairman. And again, it is revenue neutral. When we talk about what needs to be done to get the economy growing again and looking at language like this that allows us to work together to look after men and women of all races, of all creed, to be able to provide them that path forward to seek out programs like SBIR and STTR that are great I think is something important for us to consider. With that, Mr. Chairman, I certainly encourage adoption of this amendment which now includes disabled veterans, and I yield back my time.

Chairman HALL. The gentleman yields back his time. At this time we will have a vote on the amendment as amended. All those in favor say aye, no. The no's have it. The no's have it. The amendment is not agreed to.

Ms. JOHNSON. Recorded vote, Mr. Chairman.

Chairman HALL. Now, let me make this statement before we go any further. The gentlelady has accepted the persons with disability to include veterans with disabilities, but we still have the mandatory situation to deal with. I urge a no vote on this, and the clerk will call the roll.

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

[No response.]

The CLERK. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?
[No response.]
The CLERK. Mr. Neugebauer?
Mr. NEUGEBAUER. No.
The CLERK. Mr. Neugebauer votes no.
Mr. McCaul?
Mr. MCCAUL. No.
The CLERK. Mr. McCaul votes no.
Mr. Broun?
Dr. BROUN. No.
The CLERK. Mr. Broun votes no.
Mrs. Adams?
Mrs. ADAMS. No.
The CLERK. Mrs. Adams votes no.
Mr. Quayle?
Mr. QUAYLE. No.
The CLERK. Mr. Quayle votes no.
Mr. Fleischmann?
Mr. FLEISCHMANN. No.
The CLERK. Mr. Fleischmann votes no.
Mr. Rigell?
Mr. RIGELL. No.
The CLERK. Mr. Rigell votes no.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
Mr. HULTGREN. No.
The CLERK. Mr. Hultgren votes no.
Mr. Cravaack?
Mr. CRAVAACK. Yea.
The CLERK. Mr. Cravaack votes aye.
Mr. Bucshon?
Mr. BUCSHON. No.
The CLERK. Mr. Bucshon votes no.
Mr. Benishek?
Mr. BENISHEK. No.
The CLERK. Mr. Benishek votes no.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
Mr. COSTELLO. Aye.
The CLERK. Mr. Costello votes aye.
Ms. Woolsey?
Ms. WOOLSEY. Aye.
The CLERK. Ms. Woolsey votes aye.
Ms. Lofgren?

[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
[No response.]
The CLERK. Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye.
Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
Ms. FUDGE. Aye.
The CLERK. Ms. Fudge votes aye.
Mr. Lujan?
Mr. LUJAN. Aye.
The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. Aye.
The CLERK. Mr. McNerney votes aye.
Mr. Sarbanes?
Mr. SARBANES. Aye.
The CLERK. Mr. Sarbanes votes aye.
Ms. Sewell?
Ms. SEWELL. Aye.
The CLERK. Ms. Sewell votes aye.
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clarke?
Mr. CLARKE. Aye.
The CLERK. Mr. Clarke votes aye.

Chairman HALL. Are there other members who wish to vote? All right. The clerk will report the vote.

The CLERK. Mr. Chairman, 15 members vote aye and 17 members vote no.

Chairman HALL. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 AMENDMENT NO. 031 ROLL CALL NO.___5__

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

SPONSOR of AMEND: Hon. Johnson

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*				
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*		X		
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*		X		
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*		X		
20 Mr. CRAVAACK - *MN*	X			
21 Mr. BUCSHON - *IN*		X		
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*	X			
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*				
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*	X			
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*	X			
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*	X			
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*	X			
TOTALS	15	17		

Chairman HALL. Are there other amendments?

Mr. LIPINSKI. Mr. Chairman?

Chairman HALL. Who seeks recognition?

Mr. LIPINSKI. Mr. Lipinski.

Chairman HALL. Mr. Lipinski? All right. The next amendment is offered by the gentleman from Illinois, Mr. Lipinski. Are you ready to proceed with your amendment?

Mr. LIPINSKI. Yes, I have an amendment at the desk.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 018, amendment to H.R. 1425 offered by Mr. Lipinski of Illinois.

Chairman HALL. I ask unanimous consent to dispense with the reading. Without objection, it is so ordered. The gentleman is recognized for five minutes to explain his amendment.

Mr. LIPINSKI. Thank you, Chairman Hall, for your work in quickly advancing this critical bill. I have been a champion of SBIR and STTR programs since I have been in Congress, and I hope assuming this bill passes the House in short order that we can finally reach an agreement with the Senate. That is why I was proud to join you in cosponsoring this bill.

While I believe that both SBIR and STTR programs have worked well, I believe they do not do enough to support academic or national lab researchers who are founding a small business in trying to bring a new product to market. This means not only building successful prototype, it also means market research, developing an intellectual property strategy, investigating commercial or business opportunities.

Without guidance and help in the early phases of commercialization, many small businesses will never get off the ground. My amendment would address this problem by creating a new pilot program within STTR at the National Institutes of Health. This idea is based on the testimony of one of the witnesses in the hearing held before the Technology Innovation Subcommittee at the end of March. Mr. Crowell described University of Virginia's successful proof-of-concept program which helps researchers identify the most promising markets and direct their small business accordingly. This program, which is funded by a grant from the Coulter Foundation, has generated a five-to-one overall return on investment.

This is not the only example of a successful phase zero program. The European Research Council funds a similar initiative, and Deshpande Center at MIT also includes some of these activities.

This amendment will require the NIH to allocate $10 million from within its STTR program for at least 10 grants that will go to universities or other research institutions including national labs. These institutions would, in turn, use the grants to run proof-of-concept programs modeled after successful examples I have mentioned. Within a proof-of-concept program at a research institution, small grants would be awarded to individual researchers to support translational proof-of-concept work including market analysis and mentoring. Critically, the proof-of-concept programs would be required to use an industry project management board composed of local, technical and business experts. This board would monitor the progress of grant recipients, imposing market-driven milestones and reporting requirements. The board should also be quick to terminate any failing projects.

My amendment would bring an idea that succeeded with other funding sources to the STTR program through a limited pilot program at the NIH. It is an idea that has improved commercialization outcomes whenever it has been tried. It is worth trying here.

I urge my colleagues to support this amendment, and I yield back the balance of my time.

Chairman HALL. I thank the gentleman for yielding back his time and actually, I yield myself five minutes.

The amendment would take 13 percent of the STTR funds of the National Institute of Health's STTR program and redirect them to the university commercialization activities. That is what I understand the gentleman to be saying. And while I recognize that it is challenging for universities to achieve effective technology transfer, I am concerned that this amendment supports that effort at the cost of small businesses who are currently the lead partner on the STTR grant. Indeed this bill is primarily a small business innovation bill, and most important, I don't think it is appropriate to divert money away from small businesses under this bill. Further, under this amendment the NIH director would make awards to a university or research institution and allow the institution to fund individual grants. Traditionally NIH has provided awards directly to principal investigators after their applications have undergone a rigorous peer review process.

I am concerned that the awards under this amendment would not be held to the same rigorous standards. While I agree that we should be promoting effective technology transfers at our colleges, universities and research institutions, I don't believe this is a proper vehicle to achieve that goal. For these reasons, I oppose the gentleman's amendment. Is there further discussion on the amendment? I yield back my time. The gentlelady from Ohio.

Ms. FUDGE. Thank you, Mr. Chairman. I would like to first thank my colleague, Mr. Lipinski, for offering this amendment. It is well-known and we have heard testimony time and time again that there does in fact exist a valley of death where technologies are stuck between research and commercialization with insufficient resources to pull them through. Mr. Lipinski's amendment would help address this problem by creating a pilot program for the early proof-of-concept stage of research and development. Moreover, it would help build the infrastructure of expertise and will facilitate the cultural change necessary for the transfer of technology from the university setting to the marketplace.

Let us take a look at NIH. Ohio is one of the states hit hardest by this economic recession, but it is also one of the fastest-growing regions in bioscience. Last fiscal year the Ohio State University, which is my alma mater, had $124 million in NIH research expenditures which supported 2,500 jobs. Case Western Reserve University in my district received $185 million in NIH and NIHRR funds.

Additionally, from 2000 to 2009, 170 companies were created, small businesses, from SBIR/STTR awards, and the majority of them were in Northeast Ohio. Mr. Lipinski's amendment will grow that number and enable technology commercialization across the Nation by making these R&D dollars more effective. I urge my colleagues to support this amendment, and I would like to yield the balance of my time to my colleague, Mr. Lujan.

Mr. LUJAN. I thank my colleague, Mr. Chairman, and I want to thank Mr. Lipinski as well for bringing this important topic forward. As you know, I am a proponent of technology transfer, and one of the significant roadblocks for technology transfer from universities and national labs is the lack of funding for proof-of-concept work, including technology maturation, prototype develop-

ment, technical validation and market research. All of this is needed in order to attract business partners or capital for new technology. One of the roadblocks that groups, organizations, especially small businesses and entrepreneurs talk about is that there is no support to take basic technology innovation to mature it, to commercialize it, to attract investors or to help get it out of this valley of death. This is something that we hear from, not only during our hearings during markup, but I hear when I go home and I talk to our entrepreneurs. When those small business groups come and visit with us here at our offices, here in hearing rooms, this is one area that I think there is full agreement with.

So this pilot program looks to be an effective way at testing a method for lowering the roadblock to commercialization. As we put ourselves back on a track to an innovative economy, to being able to attract more manufacturing here in the U.S., to help these entrepreneurs be able to move this technology forward, we need programs like this.

So again, I applaud the efforts of my colleague. I fully support and I certainly hope that we can support small businesses to be able to accelerate their ability to take these innovative ideas and take them to the marketplace.

With that, I yield back to my colleague from Ohio.

Chairman HALL. The gentleman yields back. Is there further——

Ms. FUDGE. I yield back.

Chairman HALL. —request? The gentlelady yields back her time.

Mr. LIPINSKI. Mr. Chairman?

Chairman HALL. Who seeks recognition?

Mr. LIPINSKI. Mr. Lipinski.

Chairman HALL. The author. I will recognize you, Mr. Lipinski. Go ahead, I recognize you for five minutes.

Mr. LIPINSKI. Thank you, Chairman Hall. I will make this quick. I want to thank you again for all your work on this bill and also thank Chairman Quayle for his work.

We all clearly want to support small business, but we do know that we have not only great research institutions, universities but the great research that is going on at our national labs that is out there. It is unfortunate that we don't see enough of what is found in the lab brought to the market. I think this is critical for the future of our country, building more small businesses, creating more jobs. And this would not be taking money away from small businesses. It would be helping to create more small businesses. And I think doing a pilot program, setting aside a little bit of money to do that, we would only go to universities, national labs that have proven that they have programs in place that have helped researchers to start-up companies. So we will have that. There is no reason to believe that they will be using this money unwisely. They will have to have a proven track record of what they have done, and then we can see, we can evaluate after the pilot program is done if it is has been successful.

So again, I want to thank you, Chairman Hall, for your work on this legislation, and I just want to urge my colleagues to support this to help us create those small businesses that we all know are critical for our country. And I yield back.

Chairman HALL. And the gentleman yields back, and I thank the gentleman for his input. And I know the gentleman's intention is sincere. I disagree with him that this is a small business bill, and it does take money from small businesses. I suggested universities, colleges are great to support, and I recognize the gentleman's knowledge about their needs and he represents his district well. But I disagree with him on whether this is a small business bill, and I don't think we ought to divert any of the funds otherwise.

Is there anyone else who wants to be heard? All right. If not, we will vote on the amendment. Those in favor of the amendment say aye, those who oppose say no. Chair believes the no's have it.

Mr. LIPINSKI. Mr. Chairman?

Chairman HALL. The Chair recognizes a motion from——

Mr. LIPINSKI. Ask for a recorded vote.

Chairman HALL. Yes. A record vote is called for. The clerk will call the roll.

The CLERK. Chairman Hall?

Chairman HALL. Votes no.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

[No response.]

The CLERK. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

[No response.]

The CLERK. Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?

[No response.]

The CLERK. Mr. Neugebauer?

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.

Mr. McCaul?

Mr. MCCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

Dr. BROUN. No.

The CLERK. Mr. Broun votes no.

Mrs. Adams?

Mrs. ADAMS. Aye.

The CLERK. Mrs. Adams votes aye.

Mr. Quayle?

Mr. QUAYLE. No.

The CLERK. Mr. Quayle votes no.

Mr. Fleischmann?

Mr. FLEISCHMANN. No.

The CLERK. Mr. Fleischmann votes no.

Mr. Rigell?

Mr. RIGELL. No.
The CLERK. Mr. Rigell votes no.
Mr. Palazzo?
Mr. PALAZZO. No.
The CLERK. Mr. Palazzo votes no.
Mr. Brooks?
Mr. BROOKS. No.
The CLERK. Mr. Brooks votes no.
Mr. Harris?
Mr. HARRIS. No.
The CLERK. Mr. Harris votes no.
Mr. Hultgren?
Mr. HULTGREN. No.
The CLERK. Mr. Hultgren votes no.
Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
[No response.]
The CLERK. Mr. Benishek?
Mr. BENISHEK. Aye.
The CLERK. Mr. Benishek votes aye.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
[No response.]
The CLERK. Ms. Woolsey?
Ms. WOOLSEY. Aye.
The CLERK. Ms. Woolsey votes aye.
Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
Mr. MILLER. Aye.
The CLERK. Mr. Miller votes aye.
Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye.
Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
Ms. FUDGE. Aye.
The CLERK. Ms. Fudge votes aye.
Mr. Lujan?
Mr. LUJAN. Aye.
The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.

The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. Aye.
The CLERK. Mr. McNerney votes aye.
Mr. Sarbanes?
Mr. SARBANES. Aye.
The CLERK. Mr. Sarbanes votes aye.
Ms. Sewell?
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clarke?
Mr. CLARKE. Yes.
The CLERK. Mr. Clarke votes aye.
Chairman HALL. Are there other members who wish to vote?
Mr. COSTELLO. Mr. Chairman? Costello votes aye.
The CLERK. Mr. Costello votes aye.
Chairman HALL. Are there others? The clerk will report roll call.
The CLERK. Mr. Chairman, 16 members vote aye and 14 members vote no.
Chairman HALL. The amendment is agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 **AMENDMENT NO. 018** **ROLL CALL NO.___6__**

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon. Lipinski

PASSED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*				
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*				
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*		X		
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*	X			
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*		X		
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*		X		
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*				
22 Mr. BENISHEK - *MI*	X			
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*	X			
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*	X			
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*	X			
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*	X			
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*	X			
TOTALS	16	14		

Chairman HALL. Are there other amendments?

Mr. TONKO. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. All right. The next amendment is offered by the gentleman from New York, and we just have three more to go, I think. Mr. Tonko, are you ready to proceed with your amendment?

Mr. TONKO. Yes, I am, sir.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 035, amendment to H.R. 1425 offered by Mr. Tonko of New York.

Chairman HALL. The gentleman is recognized for five minutes to report the amendment.

Mr. TONKO. Thank you, Mr. Chair. After meeting with many constituents and reviewing the National Academies' report on the SBIR program, it is clear to me we should be doing more at NIH to help all types of companies to commercialize their products that they have developed in the SBIR program at NIH.

Most of the discussion about opening the entire SBIR program seems to be coming from companies that participate or would like to particulate in the SBIR program at NIH. To address the concerns of these companies, I have offered this amendment. It would create a pilot program within NIH. This program would provide funding to any SBIR Phase II recipient companies from 2007 through 2008 equal to their face to award through a competitive process for the purposes of commercialization. Funds would be awarded to eligible companies for the purpose of commercialization. A key process in the product development phase, this commercialization funding would enable the companies to quickly hire additional help and move their product to market. The valley of death is real, and the pilot program I have proposed here aims at eliminating that valley of death for SBIR companies awarded through NIH. Their success and developments to date are often credited to the SBIR program. However, this amendment would make the most important leap, taking the idea from a lab or research center and launching the product to market, creating real jobs and real economic growth. This concept originated with small businesses in my district which came to me with the desire to grow and create more jobs. They recognize and feel the pressure of the valley of death each and every day. This pilot program can be used to attempt a new, innovative approach. We use the years 2007 and 2008 as a baseline because it is the products developed in these years that are ready to be commercialized today. I urge members of the Committee to support this amendment, Mr. Chair, and I yield back the balance of my time.

Chairman HALL. The gentleman yields back the balance of his time, and I thank the gentleman. At a time when our Nation is facing very significant deficits, I think it is inappropriate to authorize such a large program that we have not fully examined. One of the strengths of H.R. 1425 is that it does not authorize any additional funding. Instead, the SBIR and STTR programs are funded through set-asides from existing agency research budgets. This amendment would add $538 million in new spending which we just can't afford at this time. I oppose this amendment and urge my colleagues to do so.

Is there further discussion on the amendment? The Chair hears none. Hearing no further discussion, the vote occurs on the amendment. All in favor say aye——

Mr. TONKO. Mr. Chair, I request a recorded vote, please.

Chairman HALL. A recorded vote is requested. Let me finish with the first vote first.

Mr. TONKO. Okay.

Chairman HALL. All those in favor say aye. All those opposed say no. The no's have it.

Mr. TONKO. Mr. Chair, I move for a recorded vote, please.

Chairman HALL. Recorded vote is called. The clerk will please call the roll.

The CLERK. Yes.

Chairman HALL. In a hurry.

The CLERK. Chairman Hall?

Chairman HALL. No.

The CLERK. Chairman Hall votes no.

Mr. Sensenbrenner?

[No response.]

The CLERK. Mr. Smith?

[No response.]

The CLERK. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Bartlett?

[No response.]

The CLERK. Mr. Lucas?

[No response.]

The CLERK. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no.

Mr. Akin?

[No response.]

The CLERK. Mr. Neugebauer?

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.

Mr. McCaul?

Mr. MCCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

Dr. BROUN. No.

The CLERK. Mr. Broun votes no.

Mrs. Adams?

Mrs. ADAMS. No.

The CLERK. Mrs. Adams votes no.

Mr. Quayle?

Mr. QUAYLE. No.

The CLERK. Mr. Quayle votes no.

Mr. Fleischmann?

Mr. FLEISCHMANN. No.

The CLERK. Mr. Fleischmann votes no.

Mr. Rigell?

Mr. RIGELL. No.

The CLERK. Mr. Rigell votes no.

Mr. Palazzo?

Mr. PALAZZO. No.

The CLERK. Mr. Palazzo votes no.

Mr. Brooks?

[No response.]

The CLERK. Mr. Harris?

Mr. HARRIS. No.

The CLERK. Mr. Harris votes no.

Mr. Hultgren?

Mr. HULTGREN. No.

The CLERK. Mr. Hultgren votes no.
Mr. Cravaack?
Mr. CRAVAACK. No.
The CLERK. Mr. Cravaack votes no.
Mr. Bucshon?
[No response.]
The CLERK. Mr. Benishek?
Mr. BENISHEK. No.
The CLERK. Mr. Benishek votes no.
Ms. Johnson?
Ms. JOHNSON. Aye.
The CLERK. Ms. Johnson votes aye.
Mr. Costello?
Mr. COSTELLO. Aye.
The CLERK. Mr. Costello votes aye.
Ms. Woolsey?
Ms. WOOLSEY. Aye.
The CLERK. Ms. Woolsey votes aye.
Ms. Lofgren?
[No response.]
The CLERK. Mr. Wu?
Mr. WU. Aye.
The CLERK. Mr. Wu votes aye.
Mr. Miller?
Mr. MILLER. Aye.
The CLERK. Mr. Miller votes aye. Mr. Lipinski?
Mr. LIPINSKI. Aye.
The CLERK. Mr. Lipinski votes aye.
Ms. Giffords?
[No response.]
The CLERK. Ms. Edwards?
Ms. EDWARDS. Aye.
The CLERK. Ms. Edwards votes aye.
Ms. Fudge?
Ms. FUDGE. Aye.
The CLERK. Ms. Fudge votes aye.
Mr. Lujan?
Mr. LUJAN. Aye.
The CLERK. Mr. Lujan votes aye.
Mr. Tonko?
Mr. TONKO. Aye.
The CLERK. Mr. Tonko votes aye.
Mr. McNerney?
Mr. MCNERNEY. Aye.
The CLERK. Mr. McNerney votes aye.
Mr. Sarbanes?
Mr. SARBANES. Aye.
The CLERK. Mr. Sarbanes votes aye.
Ms. Sewell?
[No response.]
The CLERK. Ms. Wilson?
Ms. WILSON. Aye.
The CLERK. Ms. Wilson votes aye.
Mr. Clarke?

[No response.]

Chairman HALL. Are there other who wish to vote? The clerk report the vote, please.

The CLERK. Mr. Chairman, 13 members vote aye and 15 members vote no.

Chairman HALL. The amendment is not agreed to.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 112th

DATE: 5/4/2011 **AMENDMENT NO. 035** **ROLL CALL NO.__7__**

Bill: H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"
SPONSOR of AMEND: Hon.Tonko

DEFEATED

Quorum –14 to vote –21 to report

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. HALL, *Chair* - *TX*		X		
2 Mr. SENSENBRENNER - *WI*				
3 Mr. SMITH - *TX*				
4 Mr. ROHRABACHER - *CA*		X		
5 Mr. BARTLETT - *MD*				
6 Mr. LUCAS - *OK*				
7 Mrs. BIGGERT - *IL*		X		
8 Mr. AKIN - *MO*				
9 Mr. NEUGEBAUER - *TX*		X		
10 Mr. McCAUL - *TX*		X		
11 Mr. BROUN - *GA*		X		
12 Mrs. ADAMS - *FL*		X		
13 Mr. QUAYLE - *AZ*		X		
14 Mr. FLEISCHMANN - *TN*		X		
15 Mr. RIGELL - *VA*		X		
16 Mr. PALAZZO - *MS*		X		
17 Mr. BROOKS - *AL*				
18 Mr. HARRIS - *MD*		X		
19 Mr. HULTGREN - *IL*		X		
20 Mr. CRAVAACK - *MN*		X		
21 Mr. BUCSHON - *IN*				
22 Mr. BENISHEK - *MI*		X		
23 Vacancy				
1 Ms. JOHNSON, *Ranking* - *TX*	X			
2 Mr. COSTELLO - *IL*	X			
3 Ms. WOOLSEY - *CA*	X			
4 Ms. LOFGREN - *CA*				
5 Mr. WU - *OR*	X			
6 Mr. MILLER - *NC*	X			
7 Mr. LIPINSKI - *IL*	X			
8 Ms. GIFFORDS - *AR*				
9 Ms. EDWARDS - *MD*	X			
10 Ms. FUDGE - *OH*	X			
11 Mr. LUJÁN - *NM*	X			
12 Mr. TONKO - *NY*	X			
13 Mr. McNERNEY - *CA*	X			
14 Mr. SARBANES - *MD*	X			
15 Ms. SEWELL - *AL*				
16 Ms. WILSON - *FL*	X			
17 Mr. CLARKE - *MI*				
TOTALS	13	15		

Chairman HALL. Are there further amendments?

Dr. BROUN. Mr. Chairman?

Chairman HALL. Dr. Broun, I recognize you for your amendment.

Dr. BROUN. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. The next amendment is amendment number 22, an amendment offered by the gentleman from Georgia. Are you ready to proceed with your amendment, sir?

Dr. BROUN. Yes, Mr. Chairman. The amendment is——

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 022, amendment to H.R. 1425 offered by Mr. Broun of Georgia.

Chairman HALL. I would ask unanimous consent to dispense with the reading. Without objection, it is so ordered. The gentleman from Georgia is recognized for five minutes to explain his amendment.

Dr. BROUN. Thank you, Mr. Chairman. My amendment will respond to recent reviews by the Inspectors General community which found that the SBIR and STTR programs were vulnerable to certain kinds of waste, fraud and abuse. While H.R. 1425 already takes a number of positive steps to address these vulnerabilities, my amendment would add provisions to make it easier for SBIR agencies and other auditors to detect waste, fraud and abuse.

The amendment would standardize several requirements which some agencies already require of the SBIR and STTR grant recipients, thus notably, the amendment requires applicants and awardees to certify the statements they make in their applications and reports. These certifications make it easier for law enforcement to hold accountable applicants who make false statements to win an SBIR awards or receive SBIR payments.

My amendment makes a series of mostly technical changes to H.R. 1425's waste, fraud and abuse provisions. The purpose of these changes is to strengthen the bill's already robust waste, fraud and abuse provisions. Many of these suggestions have come from the Council of Inspectors General for integrity and efficiency working group that has been examining fraud in the SBIR and STTR programs.

I would like to recognize Senators Grassley and Rockefeller for initiating a parallel amendment to the Senate legislation, and I hope that both Houses of Congress will include similar language prior to conferencing this legislation.

I urge my colleagues to support improving mechanisms to detect and reduce waste, fraud and abuse in these programs and to support my amendment. Mr. Chairman, I yield back.

Chairman HALL. The gentleman yields back, and I thank the gentleman for his amendment. I think it is a good addition to the bill. One of the most important duties we have as a Committee is to ensure proper oversight of the programs over which we have jurisdiction. This is the best way to ensure that vital taxpayer dollars are not wasted. I think this amendment will assist in ensuring that the SBIR and STTR programs are being properly administered at the federal agencies, and I support it. Are there others who wish to be heard?

Ms. EDWARDS. Mr. Chairman?

Chairman HALL. The Chair recognizes the gentlelady from Maryland.

Ms. EDWARDS. Mr. Chairman, I have a second-degree amendment at the desk. It has been shared with the majority.

Chairman HALL. All right. The clerk will distribute the amendment. Wait until we all get it. The clerk shall report the amendment.

The CLERK. Amendment number 010, amendment offered by Ms. Edwards of Maryland to the amendment offered by Mr. Broun of Georgia.

Chairman HALL. I ask unanimous consent to dispense with the reading. Without objection, so ordered. The gentlelady is recognized for five minutes to explain her amendment.

Ms. EDWARDS. Thank you, Mr. Chairman, and I want to thank and congratulate Dr. Broun, Mr. Broun, on his amendment. He has really taken up I think a really important area of accountable and transparency, and I join him in supporting these set of provisions. In fact, had he not offered them, I was looking also at what the Senate leaders have done and wanted to make sure that we did the same thing in the house. And so Mr. Broun, thank you.

I am offering an amendment, and my intent is really to ensure that we entrust the enforcing and anti-fraud provisions of the program. The Inspectors General and Justice Department, we want to make sure that they have adequate tools to punish those who commit fraud against the government and taxpayer. We really should give credit to Senator Rockefeller who has done most of the lion's share work on fraud and misuse of SBIR grants, and the language that is offered today is almost identical to an amendment drafted by the Senators, but that shouldn't detract at all from our consideration of that here in the House and in this Committee.

Credit also has to go to the Inspectors General at the National Science Foundation and NASA, particularly Allison Lerner, the NSF IG has been a leading voice on the need to insert a lot more managerial rigor into the SBIR program, and I am happy to follow their advice on how to proceed.

According to the National Science Foundation Inspector General, one issue that has been particularly vexing is a lack of ongoing certification by the SBIR recipients, that they are doing the work they applied to do and that they are not basically double-dipping, duplicating funding from other agencies. The NSF already requires such certifications in their applications for Phase I and Phase II awards, as well as at the time of interim and final reports. And the question is, do we require those same sort of certifications so that we strengthen the hands of enforcement authorities to make sure that they are able to actually prosecute waste, fraud and abuse when it occurs? And what we have heard from both the Inspectors General and from the Department of Justice is that they lack that tool and lacking the certification where the recipient would have to check off a certain amount of boxes, not anything that is particular onerous indicating that they are not double-dipping, that they are not submitting for duplicate funds, in that certification process. Then when the prosecutor finds that there might be waste, fraud or abuse or the Inspector General does, there is some teeth in terms of enforcing the requirements of the grant.

And so NSF, the IG, they have a report on this, and they found that without that certification and agency's requiring, the Justice

Department is actually reluctant to pursue fraud cases. And that is the purpose of this amendment, is to require the certification, require the recipient to check off the boxes in the normal SBIR process so it is no anymore onerous. It is a one-sheet form of certifications, and then that gives the enforcement authorities the tools that they need in case there is fraud going on.

So I offer the amendment in the spirit of actually perfecting Dr. Broun's well-intentioned provision, and my language that has been worked out with the Inspector General makes it clear that the new rules on certification will require certification at every stage of a project and that the certifications will include attestations that the people and firms paid to do the work are actually doing the work for which they submitted, and they provide a firm disclosure if they have pursued or are pursing funding from other agencies for the same or similar work.

And so I want to thank you very much, and I know that many members might be concerned. Some members might be concerned that it adds to the burden, but it can already be a part of the SBIR process, and NSF has found that, you know, you have the form in there, the certification is done and then the grant is pursued.

And so I would appreciate consideration of this amendment to an already really strong set of provisions, and I hope that, Dr. Broun, you would accept it and that members of the Committee would, and with that I yield.

Chairman HALL. The gentlelady yields, and I thank her for her statement. I appreciate the gentlelady's desire to add to the content of Dr. Broun's amendment with a second-degree amendment. However, as we have only just received this amendment during the markup, I am inclined to oppose this amendment as members are not being provided enough time to review the contents and implications of the gentlelady's amendment to Dr. Broun's amendment. We attempt to avoid last-minute situations like these by the use of a roster, knowing that members do have the ability to craft second-degree amendments at any point during the markup. Committee policy and the spirit of comity dictates that the members be provided sufficient time to review, inquire about and research language to be adopted by the underlying bill. As the gentlelady's amendment is time-stamped 5:34 p.m. last evening, it would have gone a long way to the cooperative process had the Republican Committee staff and Dr. Broun's staff been apprised of the gentlelady's desire to add to Dr. Broun's amendment. Because I am concerned about including language not fully vetted by the members, I would ask that the gentlelady withdraw her amendment and possibly work with Dr. Broun prior to this bill going to the Floor. I yield back my time.

Ms. EDWARDS. Mr. Chairman?

Chairman HALL. I beg your pardon? Ms. Edwards?

Ms. EDWARDS. Mr. Chairman, let me just say I really appreciate that, and I would be willing to withdraw it and work with Dr. Broun, you know, just because of logistics between Dr. Broun and myself. I only had a chance to actually speak with him this morning and then fully intended to do that yesterday, but we were unable to have that conversation. And so I appreciate that, and I think that this is consistent with Dr. Broun's approach and would

look forward to working with him, withdrawing the amendment and making sure that it could be included.

Chairman HALL. I don't question your genuine sincerity. Dr. Broun, I recognize you for an acceptance of this gentlelady's suggestion which I suggest you accept.

Dr. BROUN. Mr. Chairman, I accept your suggestion to accept the lady's suggestion that she and I work together. And in fact, she and I work together on about a lot of issues. She is my ranking member on my O&I Subcommittee. I have a tremendous respect for her and enjoy working with her. And I do look forward to working the details out with this.

The secondary amendment actually just lists the certification process whereas the amendment itself would put in place the certification. But this just enumerates what those certifications are, and I am very eager to work with the lady from Maryland to work this out so it is to everyone on the Committee's satisfaction. So I agree.

Chairman HALL. I thank the gentleman. The gentlelady has withdrawn her second-degree amendment, 0.10. Is there further discussion on the amendment offered by the gentleman from Georgia? Hearing none, the vote occurs on the amendment. All in favor say aye, those opposed say no. The yeas have it. The amendment is agreed to.

Are there any other amendments?

Mr. LUJAN. Mr. Chairman?

Chairman HALL. For what purpose does the gentleman seek recognition?

Mr. LUJAN. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. The next amendment is offered by the gentleman from New Mexico, Mr. Lujan. Are you ready to proceed with your amendment?

Mr. LUJAN. Yes, Mr. Chairman.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 018, amendment to H.R. 1425 offered by Mr. Lujan of New Mexico.

Chairman HALL. I ask unanimous consent to dispense with the reading. Without objection, it is so ordered. I recognize the gentleman from New Mexico for five minutes.

Mr. LUJAN. Thank you, Mr. Chairman. This amendment would add the STTR program to the National Research Council's ongoing study. Following the agreement between myself and Chairman Quayle at the Subcommittee markup, our offices worked together and we came up with language that would be acceptable to both the majority and the minority.

A study of the STTR program is long overdue. The most recent examination of the STTR program was a 2001 GAO report which was used for the 2001 reauthorization of the program. However, the report was based off of 102 Phase II projects from 1995 to 1997, only the first three years of this project. So the past 14 years of STTR awards experience was left unexamined. I think it is important that we look at it.

It is imperative that a study of this program be performed as part of our Congressional oversight, and I thank Chairman Quayle and the Committee staff for their cooperation in drafting acceptable

language, and I urge adoption of this amendment. Mr. Chairman, I yield back.

Chairman HALL. I thank the gentleman, and I certainly thank the gentleman from New Mexico for his interest in evaluating the STTR program and appreciate that we were able to work between Subcommittee and Full Committee, and I think that is the understanding of the Chairman of the Subcommittee on an amendment establishing strong evaluation mechanisms for the program. I am pleased to support the gentleman's amendment.

Is there further discussion? The Chair hears none, so at this time all in favor of the amendment say aye, those opposed say no. The ayes have it, and the amendment is agreed to.

Are there further amendments?

Mr. ROHRABACHER. Mr. Chairman, I have an amendment at the desk.

Chairman HALL. The gentleman from California has an amendment. Are you ready to proceed, Mr. Rohrabacher?

Mr. ROHRABACHER. I am.

Chairman HALL. The clerk will report the amendment.

The CLERK. Amendment number 014, amendment to H.R. 1425 offered by Mr. Rohrabacher of California.

Chairman HALL. I ask unanimous consent to dispense with the reading. Without objection, it is so ordered.

Mr. ROHRABACHER. Mr. Chairman, may I describe what my amendment is?

Chairman HALL. I recognize you for five minutes. If you can't describe it in five minutes, I will consider five minutes.

Mr. ROHRABACHER. All right. Well, we have had the debate a little bit earlier on this idea of lists. My amendment would modify language offered in subcommittee by Representative Lujan which states that federal agencies shall encourage SBIR and STTR applications from a number of different types of small businesses. The current list includes small businesses located in rural areas with high unemployment, small businesses owned by women, veterans or minorities and my amendment would add small businesses owned and operated by individuals with disabilities. As I mentioned earlier with the earlier debate, I would prefer not having lists. It seems to me that we should be encouraging people who are struggling to improve their lives regardless of their race, regardless of their sex. That makes every sense to me and certainly trying to give someone a preference in reaching out to people who are of a race or sex that is being targeted for helping or whatever to try to give a helping hand, if those particular women or those particular minority people happen to be from wealthy families, we aren't doing anybody any justice.

So I would prefer no lists at all. But if we have to have lists, putting people with disabilities on that list is the one that really makes sense because someone with a disability, whether they are a woman or a minority, those people have a personal struggle that they have to go through in order to succeed in the business world and in small business, et cetera, and in this innovative world that we are trying to promote.

So while my amendment seeks to promote a broader pool of applicants for the agencies involved, I think that if we are going to

do that, let us put people with disabilities on that list. With that, I yield back the balance of my time.

Chairman HALL. The gentleman yields back his time. I thank the gentleman for his amendment. I think it is a good addition to the bill. I share the gentleman's concern about leaving people out and creating lists. It might tend to ignore an important group that needs assistance. I think the gentleman has highlighted one such group with his amendment. And it is my hope that the agencies would try to encourage applications from as many diverse individuals as possible. We never know where the next great ideas in innovation will come from. That is what makes us a great country. I support the gentleman's amendment, and I urge my colleagues to do the same.

Ms. JOHNSON. Question.

Chairman HALL. Does anyone else seek recognition?

Ms. JOHNSON. Yes.

Chairman HALL. The gentlelady from Dallas, I recognize you for five minutes.

Ms. JOHNSON. Thank you very much. This amendment is intended to stand alone and not include any other language? Initially?

Mr. ROHRABACHER. Yes.

Ms. JOHNSON. Okay. Of course, there is no other language in the bill. I was wondering. Your initial statement was added to the other.

Chairman HALL. The gentlelady yield back?

Ms. JOHNSON. Yes, I yield back.

Chairman HALL. The gentlelady yields back. Are there others seeking? All right. Hearing no other, the vote occurs on the amendment. All in favor say aye, those who oppose say no. The ayes have it. The ayes have it, and the amendment is agreed to.

Are there other amendments? Hearing none, the question is on the bill H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011 as amended. All those in favor will say aye. All those opposed say no. In the opinion of the Chair, the ayes have it. The ayes have it. I will now recognize myself for a motion on the bill. I move that the Committee favorably report H.R. 1425 as amended to the House with the recommendation that the bill do pass. Furthermore, I move that staff be instructed to prepare the legislative report and make necessary technical and conforming changes and that the Chairman take all necessary steps to bring the bill before the House for consideration.

The question is on the motion to report the bill. Those in favor say aye, those opposed say no. The ayes have it, and the resolution is supported. Without objection, the motion to reconsider is laid upon the table. Members may have two subsequent calendar days in which to submit supplemental minority or additional views on the measure with receipt of such by 10:00 a.m. Monday, May the 9th. I move pursuant to Clause 1 of Rule 22 of the Rules of the House of Representatives that the Committee authorizes the Chairman to offer such motions as may be necessary in the House to adopt and pass H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011 as amended. Without objection, it is so ordered.

This concludes our Full Committee markup. The Chairman declares this Full Committee adjourned.

[Whereupon, at 12:37 p.m., the Committee was adjourned.]

Appendix:

H.R. 1425, Section-by-Section Analysis, Amendment Roster

H.R. 1425, AS AMENDED BY THE SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION ON APRIL 13, 2011

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the ''Creating Jobs Through
3 Small Business Innovation Act of 2011''.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.
Sec. 102. SBIR and STTR award levels.
Sec. 103. Agency and program flexibility.
Sec. 104. Elimination of Phase II invitations.
Sec. 105. Phase flexibility.
Sec. 106. Participation by firms with substantial investment from multiple venture capital operating companies, hedge funds, or private equity firms in a portion of the SBIR program.
Sec. 107. Ensuring that innovative small businesses with substantial investment from venture capital operating companies, hedge funds, or private equity firms are able to participate in the SBIR and STTR programs.
Sec. 108. SBIR and STTR special acquisition preference.
Sec. 109. Collaborating with Federal laboratories and research and development centers.
Sec. 110. Notice requirement.
Sec. 111. Additional SBIR and STTR Awards.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

Sec. 201. Technical assistance for awardees.
Sec. 202. Commercialization Readiness Program at Department of Defense.
Sec. 203. Commercialization Readiness Pilot Program for civilian agencies.
Sec. 204. Interagency Policy Committee.
Sec. 205. Clarifying the definition of ''Phase III''.
Sec. 206. Shortened period for final decisions on proposals and applications.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.
Sec. 302. Data collection from agencies for SBIR.
Sec. 303. Data collection from agencies for STTR.
Sec. 304. Public database.
Sec. 305. Government database.
Sec. 306. Accuracy in funding base calculations.
Sec. 307. Continued evaluation by the National Academy of Sciences.
Sec. 308. Technology insertion reporting requirements.
Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs.
Sec. 311. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement.
Sec. 312. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
Sec. 313. Simplified paperwork requirements.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR program goals.
Sec. 502. Competitive selection procedures for SBIR and STTR programs.
Sec. 503. Loan restrictions.
Sec. 504. Program diversification.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

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

(1) by striking "TERMINATION.—" and all that follows through "the authorization" and inserting "TERMINATION.—The authorization";

(2) by striking "2008" and inserting "2014"; and

(3) by striking paragraph (2).

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

(1) by striking "IN GENERAL.—" and all that follows through "with respect" and inserting "IN GENERAL.—With respect";

(2) by striking "2009" and inserting "2014"; and

(3) by striking clause (ii).

SEC. 102. SBIR AND STTR AWARD LEVELS.

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

(1) by striking "$100,000" and inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

(b) STTR 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 inserting "$150,000"; and

(2) by striking "$750,000" and inserting "$1,000,000".

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

(1) in subsection (j)(2)(D), by striking "once every 5 years to reflect economic adjustments and programmatic considerations" and inserting "every year for inflation"; and

(2) in subsection (p)(2)(B)(ix), as amended by subsection (b) of this section, by inserting "(each of which the Administrator shall adjust for inflation annually)" after "$1,000,000,".

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

"(aa) LIMITATION ON SIZE OF AWARDS.—

"(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

"(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

"(A) the amount of each award;

"(B) a justification for exceeding the award amount;

"(C) the identity and location of each award recipient; and

"(D) whether an award recipient has received any venture capital, hedge fund, or private equity firm investment and, if so, whether the recipient is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.".

SEC. 103. AGENCY AND PROGRAM FLEXIBILITY.

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

"(bb) SUBSEQUENT PHASE II AWARDS.—

"(1) AGENCY FLEXIBILITY.—A small business concern that received a Phase I award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for

1 inclusion in the public database under subsection
2 (k).
3 "(2) SBIR AND STTR PROGRAM FLEXIBILITY.—
4 A small business concern that received a Phase I
5 award under this section under the SBIR program
6 or the STTR program may receive a subsequent
7 Phase II award in either the SBIR program or the
8 STTR program and the participating agency or
9 agencies shall report the awards to the Adminis-
10 trator for inclusion in the public database under
11 subsection (k).".

12 **SEC. 104. ELIMINATION OF PHASE II INVITATIONS.**

13 Section 9(e) of the Small Business Act (15 U.S.C.
14 638(e)) is amended—
15 (1) in paragraph (4)(B), by striking "to fur-
16 ther" and inserting "which shall not include any in-
17 vitation, pre-screening, pre-selection, or down-selec-
18 tion process for eligibility for Phase II, that will fur-
19 ther"; and
20 (2) in paragraph (6)(B), by striking "to further
21 develop proposed ideas to" and inserting "which
22 shall not include any invitation, pre-screening, pre-
23 selection, or down-selection process for eligibility for
24 Phase II, that will further develop proposals that".

SEC. 105. PHASE FLEXIBILITY.

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

"(cc) PHASE I REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I 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 a Phase I award.".

SEC. 106. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN A PORTION OF THE SBIR PROGRAM.

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

"(dd) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN THE SBIR PROGRAM.—

"(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives not later than 30 days before the date on which an award is made—

"(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 45 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns; and

"(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 35 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns

that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns.

"(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

"(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

"(B) substantially contribute to the mission of the Federal agency;

"(C) demonstrate a need for public research; and

"(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

"(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and qualified for participation in the program authorized under paragraph (1) shall—

"(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

"(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

"(4) COMPLIANCE.—

"(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

"(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this

1 subsection during the fiscal year with the max-
2 imum percentages under paragraph (1).
3 "(5) ENFORCEMENT.—If a Federal agency
4 awards more than the percent of the funds allocated
5 for the SBIR program of the Federal agency author-
6 ized under paragraph (1) for a purpose described in
7 paragraph (1), the head of the Federal agency shall
8 transfer an amount equal to the amount awarded in
9 excess of the amount authorized under paragraph
10 (1) to the funds for general SBIR programs from
11 the non-SBIR and non-STTR research and develop-
12 ment funds of the Federal agency not later than 180
13 days after the date on which the Federal agency
14 made the award that caused the total awarded under
15 paragraph (1) to be more than the amount author-
16 ized under paragraph (1) for a purpose described in
17 paragraph (1).
18 "(6) FINAL DECISIONS ON APPLICATIONS
19 UNDER THE SBIR PROGRAM.—
20 "(A) DEFINITION.—In this paragraph, the
21 term 'covered small business concern' means a
22 small business concern that—
23 "(i) was not majority-owned by mul-
24 tiple venture capital operating companies,
25 hedge funds, or private equity firms on the

1 date on which the small business concern
2 submitted an application in response to a
3 solicitation under the SBIR programs; and
4 ''(ii) on the date of the award under
5 the SBIR program is majority-owned by
6 multiple venture capital operating compa-
7 nies, hedge funds, or private equity firms.
8 ''(B) IN GENERAL.—If a Federal agency
9 does not make an award under a solicitation
10 under the SBIR program before the date that
11 is 9 months after the date on which the period
12 for submitting applications under the solicita-
13 tion ends—
14 ''(i) a covered small business concern
15 is eligible to receive the award, without re-
16 gard to whether the covered small business
17 concern meets the requirements for receiv-
18 ing an award under the SBIR program for
19 a small business concern that is majority-
20 owned by multiple venture capital oper-
21 ating companies, hedge funds, or private
22 equity firms, if the covered small business
23 concern meets all other requirements for
24 such an award; and

1 "(ii) the head of the Federal agency
2 shall transfer an amount equal to any
3 amount awarded to a covered small busi-
4 ness concern under the solicitation to the
5 funds for general SBIR programs from the
6 non-SBIR and non-STTR research and de-
7 velopment funds of the Federal agency, not
8 later than 90 days after the date on which
9 the Federal agency makes the award.
10 "(7) EVALUATION CRITERIA.—A Federal agen-
11 cy may not use investment of venture capital or in-
12 vestment from hedge funds or private equity firms
13 as a criterion for the award of contracts under the
14 SBIR program or STTR program.".
15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 Section 3 of the Small Business Act (15 U.S.C. 632) is
17 amended by adding at the end the following:
18 "(aa) VENTURE CAPITAL OPERATING COMPANY.—In
19 this Act, the term 'venture capital operating company'
20 means an entity described in clause (i), (v), or (vi) of sec-
21 tion 121.103(b)(5) of title 13, Code of Federal Regula-
22 tions (or any successor thereto).
23 "(bb) HEDGE FUND.—In this Act, the term 'hedge
24 fund' has the meaning given that term in section 13(h)(2)

of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

"(cc) PRIVATE EQUITY FIRM.—In this Act, the term 'private equity firm' has the meaning given the term 'private equity fund' in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).".

SEC. 107. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

"(ee) VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.—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

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

"(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

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

"(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

"(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.".

SEC. 108. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

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

"(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.".

SEC. 109. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

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

"(ff) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

"(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

"(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of

the activities to be performed under that award; or

"(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

"(2) PROHIBITION.—No Federal agency shall—

"(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

"(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

"(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

"(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

"(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

"(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.".

SEC. 110. NOTICE REQUIREMENT.

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

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency.".

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

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting "; and";

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

"(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.".

SEC. 111. ADDITIONAL SBIR AND STTR AWARDS.

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

"(gg) ADDITIONAL SBIR AND STTR AWARDS.—

"(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible

to receive one additional Phase II SBIR award or Phase II STTR award for continued work on that project.

"(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.".

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. TECHNICAL ASSISTANCE FOR AWARDEES.

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

(1) in paragraph (1)—

(A) by inserting "or STTR program" after "SBIR program"; and

(B) by striking "SBIR projects" and inserting "SBIR or STTR projects";

(2) in paragraph (2), by striking "3 years" and inserting "5 years"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting "or STTR" after "SBIR"; and

(ii) by striking "$4,000" and inserting "$5,000";

(B) by striking subparagraph (B) and inserting the following:

"(B) PHASE II.—A Federal agency described in paragraph (1) may—

"(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

"(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award."; and

(C) by adding at the end the following:

"(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipi-

ent that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

"(D) LIMITATION.—A Federal agency may not—

"(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

"(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.".

SEC. 202. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking "PILOT" and inserting "READINESS";

(2) by striking "Pilot" each place that term appears and inserting "Readiness";

(3) in paragraph (1)—

(A) by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program''; and

(B) by adding at the end the following: ''The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(4) in paragraph (2), by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program'';

(5) by striking paragraphs (5) and (6); and

(6) by inserting after paragraph (4) the following:

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

"(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

"(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

"(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

"(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

"(B) use incentives in effect on the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

"(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of

projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting ''(including awards under subsection (y))'' after ''the number of awards''.

SEC. 203. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

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

''(hh) PILOT PROGRAM.—

''(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

''(A) for awards for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR Phase II technologies; or

''(B) to support the progress of research, research and development, and commercializa-

tion conducted under the SBIR or STTR programs to Phase III.

"(2) APPLICATION BY FEDERAL AGENCY.—

"(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

"(B) DETERMINATION.—The Administrator shall—

"(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

"(ii) publish the determination in the Federal Register; and

"(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

"(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

"(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

"(5) AWARD CRITERIA OR CONSIDERATION.—When making an award under this section, the head of a covered Federal agency shall give consideration to whether the technology to be supported by the award is likely to be manufactured in the United States.

"(6) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

"(7) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

"(8) DEFINITIONS.—In this subsection—

"(A) the term 'covered Federal agency'—

"(i) means a Federal agency participating in the SBIR program or the STTR program; and

"(ii) does not include the Department of Defense; and

"(B) the term 'pilot program' means the program established under paragraph (1).".

SEC. 204. INTERAGENCY POLICY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee.

1 (b) DUTIES.—The Interagency SBIR/STTR Policy
2 Committee shall review the following issues and make pol-
3 icy recommendations on ways to improve program effec-
4 tiveness and efficiency:
5 (1) The public and government databases de-
6 scribed in section 9(k) of the Small Business Act
7 (15 U.S.C. 638(k)).
8 (2) Federal agency flexibility in establishing
9 Phase I and II award sizes, including appropriate
10 criteria for exercising such flexibility.
11 (3) Commercialization assistance best practices
12 of Federal agencies with significant potential to be
13 employed by other agencies, and the appropriate
14 steps to achieve that leverage, as well as proposals
15 for new initiatives to address funding gaps that busi-
16 ness concerns face after Phase II but before com-
17 mercialization.
18 (4) Developing and incorporating a standard
19 evaluation framework to enable systematic assess-
20 ment of SBIR and STTR, including through im-
21 proved tracking of awards and outcomes and devel-
22 opment of performance measures for the SBIR pro-
23 gram and STTR program of each Federal agency.
24 (c) REPORTS.—The Interagency SBIR/STTR Policy
25 Committee shall transmit to the Committee on Science,

Space, and Technology and the Committee on Small Business of the House of Representatives and to the Committee on Small Business and Entrepreneurship of the Senate—

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

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

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

(4) a report on its review and recommendations under subsection (b)(4) not later than 2 years after the date of enactment of this Act.

SEC. 205. CLARIFYING THE DEFINITION OF "PHASE III".

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)), as amended by this Act, is further amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program" after "phase";

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting "for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program" after "phase";

(3) in paragraph (8), by striking "and" at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(10) the term 'commercialization' means—

"(A) the process of developing products, processes, technologies, or services; and

"(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (e)—

(A) in paragraph (4)(C)(ii), by striking "scientific review criteria" and inserting "merit-based selection procedures";

(B) in paragraph (9), by striking "the second or the third phase" and inserting "Phase II or Phase III"; and

(C) by adding at the end the following:

"(11) the term 'Phase I' means—

"(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

"(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

"(12) the term 'Phase II' means—

"(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

"(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

"(13) the term 'Phase III' means—

"(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

"(B) with respect to the STTR program, the third phase described in paragraph (6)(C).";

(2) in subsection (j)—

(A) in paragraph (1)(B), by striking "phase two" and inserting "Phase II";

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) by striking "the third phase" each place it appears and inserting "Phase III"; and

(II) by striking "the second phase" and inserting "Phase II";

(ii) in subparagraph (D)—

(I) by striking "the first phase" and inserting "Phase I"; and

(II) by striking "the second phase" and inserting "Phase II";

(iii) in subparagraph (F), by striking "the third phase" and inserting "Phase III";

(iv) in subparagraph (G)—

(I) by striking "the first phase" and inserting "Phase I"; and

(II) by striking "the second phase" and inserting "Phase II"; and

(v) in subparagraph (H)—

(I) by striking "the first phase" and inserting "Phase I";

(II) by striking "second phase" each place it appears and inserting "Phase II"; and

(III) by striking "third phase" and inserting "Phase III"; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "the first phase (as described in subsection (e)(4)(A))" and inserting "Phase I";

(II) by striking "the second phase (as described in subsection (e)(4)(B))" and inserting "Phase II"; and

(III) by striking "the third phase (as described in subsection (e)(4)(C))" and inserting "Phase III"; and

(ii) in subparagraph (B), by striking "second phase" and inserting "Phase II";

(3) in subsection (k)—

(A) by striking "first phase" each place it appears and inserting "Phase I"; and

(B) by striking "second phase" each place it appears and inserting "Phase II";

(4) in subsection (l)(2)—

(A) by striking ''the first phase'' and inserting ''Phase I''; and

(B) by striking ''the second phase'' and inserting ''Phase II'';

(5) in subsection (o)(13)—

(A) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II''; and

(B) in subparagraph (C), by striking ''third phase'' and inserting ''Phase III'';

(6) in subsection (p)—

(A) in paragraph (2)(B)—

(i) in clause (vi)—

(I) by striking ''the second phase'' and inserting ''Phase II''; and

(II) by striking ''the third phase'' and inserting ''Phase III''; and

(ii) in clause (ix)—

(I) by striking ''the first phase'' and inserting ''Phase I''; and

(II) by striking ''the second phase'' and inserting ''Phase II''; and

(B) in paragraph (3)—

(i) by striking ''the first phase (as described in subsection (e)(6)(A))'' and inserting ''Phase I'';

(ii) by striking "the second phase (as described in subsection (e)(6)(B))" and inserting "Phase II"; and

(iii) by striking "the third phase (as described in subsection (e)(6)(C))" and inserting "Phase III";

(7) in subsection (q)(3)(A)—

(A) in the subparagraph heading, by striking "FIRST PHASE" and inserting "PHASE I"; and

(B) by striking "first phase" and inserting "Phase I";

(8) in subsection (r)—

(A) in the subsection heading, by striking "THIRD PHASE" and inserting "PHASE III";

(B) in paragraph (1)—

(i) in the first sentence—

(I) by striking "for the second phase" and inserting "for Phase II";

(II) by striking "third phase" and inserting "Phase III"; and

(III) by striking "second phase period" and inserting "Phase II period"; and

(ii) in the second sentence—

(I) by striking "second phase" and inserting "Phase II"; and

(II) by striking "third phase" and inserting "Phase III"; and

(C) in paragraph (2), by striking "third phase" and inserting "Phase III"; and

(9) in subsection (u)(2)(B), by striking "the first phase" and inserting "Phase I".

SEC. 206. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(1) in subsection (g)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the SBIR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180

days after the date on which the solicitation closes;''; and

(2) in subsection (o)(4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(B) make a final decision on each proposal submitted under the STTR program—

''(i) not later than 90 days after the date on which the solicitation closes; or

''(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;''.

(b) NIH PEER REVIEW PROCESS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended by adding at the end the following:

''(ii) NIH PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health only if the application for the award has undergone technical and scientific peer re-

1 view under section 492 of the Public Health Service Act
2 (42 U.S.C. 289a).
3 "(jj) NSF PEER REVIEW PROCESS.—Notwith-
4 standing subsections (g)(4)(B) and (o)(4)(B), the Director
5 of the National Science Foundation may make an award
6 under the SBIR program or the STTR program of the
7 National Science Foundation only if the application for
8 the award has undergone the National Science Founda-
9 tion's technical and scientific peer review process and met
10 all other applicable peer review procedures and guidelines
11 pursuant to the National Science Foundation Act of 1950
12 (42 U.S.C. 1861, et seq.) and other applicable Federal
13 law.".

14 TITLE III—OVERSIGHT AND 15 EVALUATION

16 SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIRE- 17 MENTS.

18 Section 9(b) of the Small Business Act (15 U.S.C.
19 638(b)) is amended—
20 (1) in paragraph (7)—
21 (A) by striking "STTR programs, includ-
22 ing the data" and inserting the following:
23 "STTR programs, including—
24 "(A) the data";

1 (B) by striking ''(g)(10), (o)(9), and
2 (o)(15), the number'' and all that follows
3 through ''under each of the SBIR and STTR
4 programs, and a description'' and inserting the
5 following: ''(g)(8) and (o)(9); and
6 ''(B) the number of proposals received
7 from, and the number and total amount of
8 awards to, HUBZone small business concerns
9 and firms with venture capital, hedge fund, or
10 private equity firm investment (including those
11 majority-owned by multiple venture capital op-
12 erating companies, hedge funds, or private eq-
13 uity firms) under each of the SBIR and STTR
14 programs;
15 ''(C) a description of the extent to which
16 each Federal agency is increasing outreach and
17 awards to firms owned and controlled by women
18 and social or economically disadvantaged indi-
19 viduals under each of the SBIR and STTR pro-
20 grams;
21 ''(D) general information about the imple-
22 mentation of, and compliance with the alloca-
23 tion of funds required under, subsection (dd)
24 for firms owned in majority part by venture
25 capital operating companies, hedge funds, or

private equity firms and participating in the SBIR program;

"(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

"(F) a description"; and

(C) by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data.".

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

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

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

1 (3) by inserting after paragraph (7) the fol-
2 lowing:
3 "(8) collect annually, and maintain in a com-
4 mon format in accordance with the simplified report-
5 ing requirements under subsection (v), such informa-
6 tion from awardees as is necessary to assess the
7 SBIR program, including information necessary to
8 maintain the database described in subsection (k),
9 including—
10 "(A) whether an awardee—
11 "(i) has venture capital, hedge fund,
12 or private equity firm investment or is ma-
13 jority-owned by multiple venture capital
14 operating companies, hedge funds, or pri-
15 vate equity firms, and, if so—
16 "(I) the amount of venture cap-
17 ital, hedge fund, or private equity firm
18 investment that the awardee has re-
19 ceived as of the date of the award;
20 and
21 "(II) the amount of additional
22 capital that the awardee has invested
23 in the SBIR technology;
24 "(ii) has an investor that—

1 "(I) is an individual who is not a
2 citizen of the United States or a law-
3 ful permanent resident of the United
4 States, and if so, the name of any
5 such individual; or
6 "(II) is a person that is not an
7 individual and is not organized under
8 the laws of a State or the United
9 States, and if so the name of any such
10 person;
11 "(iii) is owned by a woman or has a
12 woman as a principal investigator;
13 "(iv) is owned by a socially or eco-
14 nomically disadvantaged individual or has
15 a socially or economically disadvantaged
16 individual as a principal investigator;
17 "(v) is a faculty member or a student
18 of an institution of higher education, as
19 that term is defined in section 101 of the
20 Higher Education Act of 1965 (20 U.S.C.
21 1001); or
22 "(vi) is located in a State described in
23 subsection (u)(3); and
24 "(B) a justification statement from the
25 agency, if an awardee receives an award in an

amount that is more than the award guidelines under this section;".

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by this Act, is further amended by striking paragraph (9) and inserting the following:

"(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an applicant or awardee—

"(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment that the applicant or awardee has received as of the date of the application or award, as applicable; and

1 "(II) the amount of additional
2 capital that the applicant or awardee
3 has invested in the SBIR technology;
4 "(ii) has an investor that—
5 "(I) is an individual who is not a
6 citizen of the United States or a law-
7 ful permanent resident of the United
8 States, and if so, the name of any
9 such individual; or
10 "(II) is a person that is not an
11 individual and is not organized under
12 the laws of a State or the United
13 States, and if so the name of any such
14 person;
15 "(iii) is owned by a woman or has a
16 woman as a principal investigator;
17 "(iv) is owned by a socially or eco-
18 nomically disadvantaged individual or has
19 a socially or economically disadvantaged
20 individual as a principal investigator;
21 "(v) is a faculty member or a student
22 of an institution of higher education, as
23 that term is defined in section 101 of the
24 Higher Education Act of 1965 (20 U.S.C.
25 1001); or

"(vi) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

"(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;".

SEC. 304. PUBLIC DATABASE.

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

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

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) for each small business concern that has received a Phase I or Phase II SBIR or

STTR award from a Federal agency, whether the small business concern—

"(i) has venture capital, hedge fund, or private equity firm investment and, if so, whether the small business concern is registered as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms as required under subsection (dd)(3);

"(ii) is owned by a woman or has a woman as a principal investigator;

"(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator; or

"(iv) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

SEC. 305. GOVERNMENT DATABASE.

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

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''Not later'' and all that follows through ''Act of 2000'' and inserting ''Not later than 90 days after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011'';

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

''(A) contains, for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

''(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

''(ii) an abstract of the project;

''(iii) the specific aims of the project;

''(iv) the number of employees of the small business concern;

''(v) the names of key individuals that will carry out the project;

"(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

"(vii) whether the small business concern is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

"(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;";

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

"(D) includes, for each awardee—

"(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

"(ii) whether the awardee has venture capital, hedge fund, or private equity firm investment, and, if so—

"(I) the amount of venture capital, hedge fund, or private equity firm investment as of the date of the award;

"(II) the percentage of ownership of the awardee held by a venture capital operating company, hedge fund, or private equity firm, including whether the awardee is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

"(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

"(iii) the names and locations of any affiliates of the awardee;

"(iv) the number of employees of the awardee;

"(v) the number of employees of the affiliates of the awardee; and

"(vi) the names of, and the percentage of ownership of the awardee held by—

"(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

"(II) any person that is not an individual and is not organized under the laws of a State or the United States;";

(G) in subparagraph (E), as so redesignated, by striking "and" at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting "; and"; and

(I) by adding at the end the following:

"(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has committed fraud, waste, or abuse relating to the SBIR program or STTR program."; and

(2) in paragraph (3), by adding at the end the following:

"(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.".

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 5 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of

1 section 9 of the Small Business Act (15 U.S.C.
2 638), as amended by this Act;
3 (B) assess the extent of compliance with
4 the requirements of section 9(i)(2) of the Small
5 Business Act (15 U.S.C. 638(i)(2)) by Federal
6 agencies participating in the SBIR program or
7 the STTR program and the Administration;
8 and
9 (C) determine the portion of the extra-
10 mural research or research and development
11 budget of a Federal agency that each Federal
12 agency spends for administrative purposes re-
13 lating to the SBIR program or STTR program,
14 and for what specific purposes, including the
15 portion, if any, of such budget the Federal
16 agency spends for salaries and expenses, travel
17 to visit applicants, outreach events, marketing,
18 and technical assistance; and
19 (2) submit a report to the Committee on Small
20 Business and Entrepreneurship of the Senate and
21 the Committee on Small Business and the Com-
22 mittee on Science, Space, and Technology of the
23 House of Representatives regarding the audit con-
24 ducted under paragraph (1), including the assess-
25 ments required under subparagraph (B), and the de-

termination made under subparagraph (C) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term "applicable period" means—

(1) for the first report submitted under this section, the period beginning on October 1, 2005, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

"(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

1 "(1) IN GENERAL.—Not later than 6 months
2 after the date of enactment of the Creating Jobs
3 Through Small Business Innovation Act of 2011,
4 the head of each agency described in subsection (a),
5 in consultation with the Small Business Administra-
6 tion, shall cooperatively enter into an agreement
7 with the National Academy of Sciences for the Na-
8 tional Research Council to, not later than 4 years
9 after the date of enactment of the Creating Jobs
10 Through Small Business Innovation Act of 2011,
11 and every 4 years thereafter—
12 "(A) continue the most recent study under
13 this section relating to—
14 "(i) the issues described in subpara-
15 graphs (A), (B), (C), and (E) of subsection
16 (a)(1); and
17 "(ii) the effectiveness of the govern-
18 ment and public databases described in
19 section 9(k) of the Small Business Act (15
20 U.S.C. 638(k)) in reducing vulnerabilities
21 of the SBIR program and the STTR pro-
22 gram to fraud, waste, and abuse, particu-
23 larly with respect to Federal agencies
24 funding duplicative proposals and business

concerns falsifying information in proposals;

"(B) make recommendations with respect to the issues described in subparagraph (A)(ii) and subparagraphs (A), (D), and (E) of subsection (a)(2); and

"(C) estimate, to the extent practicable, the number of jobs created in the United States by the SBIR program or STTR program of the agency.

"(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

"(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Com-

mittee on Science, Space, and Technology of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).''.

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

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

''(kk) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

''(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

''(2) the name of the small business concern or individual receiving the Phase III award; and

''(3) the dollar amount of the Phase III award.''.

SEC. 309. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

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

"(ll) 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 or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

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

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

"(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provi-

sion through which the applicant can indicate consent for purposes of paragraph (1).''.

SEC. 310. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

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

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

''(1) IN GENERAL.—Subject to paragraph (2), for the 3 full fiscal years beginning after the date of enactment of this subsection, the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

''(A) the administration of the SBIR program or the STTR program of the Federal agency;

''(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits and personnel interviews;

"(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

"(D) carrying out the program under subsection (y);

"(E) activities relating to oversight and congressional reporting, including the waste, fraud, and abuse prevention activities described in section 312(a)(1)(B)(ii) of the Creating Jobs Through Small Business Innovation Act of 2011;

"(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program or STTR program, respectively;

"(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

"(H) carrying out subsection (dd);

"(I) carrying out subsection (hh);

"(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

"(K) funding for additional personnel and assistance with application reviews.

"(2) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

"(3) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended—

(A) in subsection (f)(2), by striking "shall not" and all that follows through "make available for the purpose" and inserting "shall not make available for the purpose"; and

(B) in subsection (y)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsection (f)(2) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (mm)(2) of section 9 of the Small Business Act, as added by subsection (a).

(3) PROSPECTIVE REPEAL.—Effective on the first day of the fourth full fiscal year following the date of enactment of this Act, section 9 of the Small Business Act (15 U.S.C. 638), as amended by paragraph (1) of this section, is amended—

(A) in subsection (f)(2), by striking ''shall not make available for the purpose'' and inserting the following: ''shall not—

''(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the pro-

gram, including costs associated with salaries and expenses; or

"(B) make available for the purpose"; and

(B) in subsection (y)—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(ii) by inserting after paragraph (3) the following:

"(4) FUNDING.—

"(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Pilot Program under this subsection.

"(B) LIMITATIONS.—The funds described in subparagraph (A)—

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

"(ii) shall not be used to make Phase III awards.".

SEC. 311. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY, HEDGE FUND, AND PRIVATE EQUITY FIRM INVOLVEMENT.

Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company, hedge fund, and private equity firm involvement under section 9 of the Small Business Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

SEC. 312. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

(1) GUIDELINES FOR FRAUD, WASTE, AND ABUSE PREVENTION.—

(A) AMENDMENTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud,

1 waste, and abuse in the SBIR program and the
2 STTR program.
3 (B) CONTENT OF AMENDMENTS.—The
4 amendments required under subparagraph (A)
5 shall include—
6 (i) definitions or descriptions of fraud,
7 waste, and abuse;
8 (ii) a requirement that the Inspectors
9 General of each Federal agency that par-
10 ticipates in the SBIR program or the
11 STTR program cooperate to—
12 (I) establish fraud detection indi-
13 cators;
14 (II) review regulations and oper-
15 ating procedures of the Federal agen-
16 cies;
17 (III) coordinate information
18 sharing between the Federal agencies;
19 and
20 (IV) improve the education and
21 training of, and outreach to—
22 (aa) administrators of the
23 SBIR program and the STTR
24 program of each Federal agency;

(bb) applicants to the SBIR program or the STTR program; and

(cc) recipients of awards under the SBIR program or the STTR program;

(iii) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program; and

(iv) a requirement that each Federal agency that participates in the SBIR program or STTR program include the telephone number of the hotline established under paragraph (2)—

(I) on the Web site of the Federal agency; and

(II) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program.

(2) FRAUD, WASTE, AND ABUSE PREVENTION HOTLINE.—

(A) HOTLINE ESTABLISHED.—The Administrator shall establish a telephone hotline that

allows individuals to report fraud, waste, and abuse in the SBIR program or STTR program.

(B) PUBLICATION.—The Administrator shall include the telephone number for the hotline established under subparagraph (A) on the Web site of the Administration.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study that evaluates—

(A) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(B) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(C) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR pro-

1 gram or the STTR program that are at high
2 risk for fraud;
3 (D) technological tools that may be used to
4 detect patterns of behavior that may indicate
5 fraud by applicants to the SBIR program or
6 the STTR program;
7 (E) the success of each Federal agency
8 that participates in the SBIR program or
9 STTR program in reducing fraud, waste, and
10 abuse in the SBIR program or the STTR pro-
11 gram of the Federal agency; and
12 (F) the extent to which the Inspector Gen-
13 eral of each Federal agency that participates in
14 the SBIR program or STTR program effec-
15 tively conducts investigations of individuals al-
16 leged to have submitted false claims or violated
17 Federal law relating to fraud, conflicts of inter-
18 est, bribery, gratuity, or other misconduct; and
19 (2) submit to the Committee on Small Business
20 and Entrepreneurship of the Senate, the Committee
21 on Small Business and the Committee on Science,
22 Space, and Technology of the House of Representa-
23 tives, and the head of each Federal agency that par-
24 ticipates in the SBIR program or STTR program a

report on the results of the study conducted under subparagraph (A).

SEC. 313. SIMPLIFIED PAPERWORK REQUIREMENTS.

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

(1) in the subsection heading, by striking "SIMPLIFIED REPORTING REQUIREMENTS" and inserting "REDUCING PAPERWORK AND COMPLIANCE BURDEN";

(2) by striking "The Administrator" and inserting the following:

"(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator"; and

(3) by adding at the end the following:

"(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than one year after the date of enactment of this paragraph, and after a period of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal

agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.''.

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

TITLE V—OTHER PROVISIONS

SEC. 501. REPORT ON SBIR AND STTR PROGRAM GOALS.

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

"(nn) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

"(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

"(A) are science-based and statistically driven;

"(B) reflect the mission of the Federal agency; and

"(C) include factors relating to the economic impact of the programs.

"(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

"(A) the SBIR program and the STTR program of the Federal agency; and

"(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

"(3) REPORT.—

"(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

"(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

"(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

"(i) the Committee on Small Business and Entrepreneurship of the Senate; and

"(ii) the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.".

SEC. 502. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

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

"(oo) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.".

SEC. 503. LOAN RESTRICTIONS.

(a) RULE REQUIRED.—For purposes of section 9 of the Small Business Act (15 U.S.C. 638), the Administrator shall promulgate a rule not later than 180 days after the date of enactment of this Act that determines what restrictions, conditions, or covenants contained in a note, bond, debenture, other evidence of indebtedness, or preferred stock constitute affiliation for purposes of section 121.103(a) of title 13, Code of Federal Regulations, as in effect on January 1, 2011.

(b) FAILURE TO PROMULGATE.—If the Administrator fails to promulgate a rule in the time period required under subsection (a), the holder of a note, bond, debenture, other evidence of indebtedness, or preferred stock shall be considered to be affiliated with the debtor or issuer of the preferred stock until such time as the Administrator promulgates the rule required under subsection (a).

SEC. 504. PROGRAM DIVERSIFICATION.

Federal agencies shall encourage applications under the SBIR and STTR programs (to the extent that the projects relate to the mission of the Federal agency) from—

(1) small business concerns in geographic areas underrepresented in the SBIR and STTR programs or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

(2) small business concerns owned and controlled by women;

(3) small business concerns owned and controlled by veterans;

(4) small business concerns owned and controlled by minorities; and

(5) small business concerns located in a geographic area with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.

SECTION-BY-SECTION ANALYSIS OF
H.R. 1425, CREATING JOBS THROUGH SMALL BUSINESS INNOVATION ACT OF 2011

Section By Section Description

I. PURPOSE

The purpose of H.R. 1425, sponsored by Rep. Renee Ellmers (R–NC 2), and co-sponsored by Rep. Jason Altmire (D–PA 4), Rep. Judy Biggert (R–IL 13), Rep. Howard Coble, (R–NC 6), Rep. Sam Graves (R–MO 6), Rep. Ralph Hall (R–TX 4), Rep. Eddie Bernice Johnson (D–TX 30), Rep. Daniel Lipinski (D–IL 3), Rep. Benjamin Quayle (R–AZ 3), Rep. Cedric L. Richmond (D–LA 2), and Rep. David Wu (D–OR 1), is to reauthorize the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

II. BACKGROUND AND NEED FOR LEGISLATION

The Small Business Innovation Research (SBIR) program was originally established when the Congress passed the Small Business Innovation Development Act in 1982 (P.L. 97–219).

The original objectives of the SBIR program included:

•Stimulation of technological innovation in the small business sector;

•Increased use of the small business sector to meet the government's research and development (R&D) needs;

•Additional involvement of minority and disadvantaged individuals in the process; and

•Expanded commercialization of the results of federally funded R&D.

The 1992 SBIR reauthorization (P.L. 102–564) placed greater emphasis on the objective of commercialization of SBIR projects.

Current law requires that every federal department with an extramural R&D budget of $100 million or more establish and operate an SBIR program. Eleven federal departments have SBIR programs, including the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, and Transportation; the Environmental Protection Agency, the National Aeronautics and Space Administration (NASA); and the National Science Foundation (NSF). Under the program, each qualifying federal department is mandated to set aside 2.5 percent of its applicable extramural R&D for the SBIR program. Cumulatively, the SBIR program makes almost $2 billion in awards to small businesses annually.

The Small Business Technology Transfer (STTR) program was created in 1992 to provide federal R&D funding for research proposals that are developed and executed cooperatively between a small firm and a scientist in a nonprofit research organization, and fall under the mission requirements of the federal funding agency.

Federal departments with annual extramural research budgets over $1 billion must set aside 0.3 percent for STTR programs. Currently, the Departments of Energy, Defense, and Health and Human Services, as well as NASA and NSF participate in the STTR program. Across the participating agencies, approximately $800 million in STTR awards are made annually.

The SBIR and STTR programs have been operating under temporary extensions since their authorizations expired in 2008 and 2009, respectively.

H.R. 1425 will reauthorize the SBIR and the STTR programs through Fiscal Year 2014.

This bill will increase the size guidelines for award amounts for Phase I and Phase II SBIR and STTR awards, will enable majority venture capital backed firms to participate in the program, and will improve evaluation of the programs through greater data collection, sharing of best practices, and increased efforts to prevent fraud, waste, and abuse.

H.R. 1425 has been referred on April 7, 2011 to the Committee on Science, Space, and Technology, and in addition to the Committee on Small Business, and the Committee on House Armed Services.

III. Subcommittee Actions

The Technology and Innovation Subcommittee held a hearing on March 31, 2011 entitled "The Role of Small Business in Innovation and Job Creation: The SBIR and STTR Programs." The purpose of the hearing was to examine the role of the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) Programs in promoting innovation.

The Committee received testimony from: Dr. Sally Rockey, Deputy Director for Extramural Research at the National Institutes of Health; Dr. Donald Siegel, Dean and Professor at the School of Business, University at Albany, State University of New York, and a Member of the research team for the Committee for Capitalizing on Science, Technology, and Innovation, National Research Council of the National Academies; Mr. Mark Crowell, Executive Director and Associate Vice President for Innovation Partnerships and Commercialization at the University of Virginia; Mr. Doug Limbaugh, Chief Executive Officer of Kutta Technologies; and Ms. Laura McKinney, President and Chief Executive Officer of Galois, Inc.

Witnesses discussed their experience with the SBIR and STTR Programs and provided advice on areas of potential improvement as the Committee is currently considering reauthorization of these programs.

The Subcommittee on Technology and Innovation met to consider H.R. 1425 on April 13, 2011.

The Subcommittee considered seven amendments, and approved four.

An amendment offered by Mr. Wu to extend the authorization through Fiscal Year 2016 was not agreed to by voice vote.

An amendment offered by Mr. Lipinski to direct civilian agencies making awards in the SBIR and STTR commercialization pilot program to consider whether the technology to be supported by the awards is likely to be manufactured in the United States was agreed to by voice vote.

An amendment offered by Mr. Quayle to ensure that applications for SBIR or STTR awards at the National Institutes of Health (NIH) and the National Science Foundation (NSF) undergo standard agency peer review process was accepted by voice vote.

An amendment offered by Ms. Wilson to authorize $10 million annually for the Small Business Administration to award grants to organizations that provide outreach and application assistance to underrepresented business groups was defeated by a recorded vote of four yeas and nine nays.

An amendment offered by Mr. Lipinski that requires the evaluation by the National Academies to estimate the number of jobs created "in the United States," as opposed to just the number of jobs created was agreed to by voice vote.

An amendment by Mr. Lujan to conduct a comprehensive study and report by the National Academies of the STTR program was withdrawn.

An amendment by Mr. Lujan requiring federal agencies to encourage applications under the SBIR and STTR programs from underrepresented business groups was agreed to by voice vote.

The bill, as amended, was agreed to by voice vote, and was favorably reported to the full Committee by voice vote.

IV. Section-by-Section Analysis

H.R. 1425, Creating Jobs Through Small Business Innovation Act of 2011

Title 1–Reauthorization of the SBIR and STTR Programs

Sec. 101. Extension Length This section extends the SBIR and STTR programs for three years until September 30, 2014.

Sec. 102. SBIR and STTR Award Levels This section increases the size of SBIR and STTR awards from $100,000 to $150,000 for Phase I and from $750,000 to $1 million for Phase II, and requires the SBA to make annual adjustments of the award sizes for inflation. The provision prohibits any agency from issuing an SBIR or STTR award if the size of the award exceeds the award guidelines established in this section by more than 50 percent. Finally, the provision requires federal agencies to maintain the following information on awards exceeding the award guidelines: the award amount; a justification for exceeding the guidelines; the identity and location of the recipient; and whether or not the recipient firm received venture capital, hedge fund, or private equity firm investment; and if so, whether or not it is majority owned and controlled by one or more venture capital companies, hedge funds, or private equity firms. Nothing shall prevent a Federal agency from supplementing an award under the SBIR or STTR programs with Federal funds that are outside of the SBIR and STTR allocations.

Sec. 103. Agency and Program Flexibility

The section allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency and also allows small business concerns, which received SBIR or STTR awards, to receive awards for subsequent phases in either the STTR or SBIR program, respectively.

Sec. 104. Elimination of Phase II Invitations

This section requires that federal agencies conduct their solicitation of Phase II SBIR and STTR proposals without any invitation, pre-screening, pre-selection, or down-selection process between the first and second phase.

Sec. 105. Phase Flexibility

This section grants agencies the ability to provide a Phase II Award if the Agency finds that the small business concern has already completed the work typically done during Phase I.

Sec. 106 and Sec. 107. Participation by Firms with Substantial Investment from Multiple Venture Capital Operating Companies in a Portion of the SBIR Program

Section 106 allows the Departments of Health of Human Services and Energy and the National Science Foundation to permit firms majority owned and controlled by one or more venture capital companies, one or more hedge funds, or one or more private equity firms to compete for up to 45 percent of the Agency's SBIR funds. All other qualifying federal agencies shall allow majority owned private investment backed small businesses to compete for up to 35 percent of the agency's SBIR funds. Sec. 107 defines what affiliations are between various outside investors (such as venture capital companies, private equity firms, etc.) and small business concerns for purposes of determining whether the combination is eligible for an award under the SBIR program.

Sec. 108. SBIR and STTR Special Acquisition Preference

This section codifies the language from the SBIR and STTR Policy Directives confirming the intent of Congress to establish a special acquisition preference for SBIR and STTR Phase III awards. The provision clarifies that preference for contracts concerning research developed with SBIR or STTR funds should go to the developers and holders of SBIR and STTR technologies to the greatest extent practicable.

Sec. 109. Collaborating with Federal Laboratories and Research and Development Centers

This section reduces the burden on cooperation between SBIR/STTR firms and federal laboratories by ensuring that such subcontracting is generally permitted without the requirement for a waiver. The provision also ensures that subcontracting to federal laboratories is not required of SBIR or STTR awardees. Finally, it clarifies that firms that have entered into a cooperative agreement with a federal laboratory are eligible to receive SBIR/STTR awards.

Sec. 110. Notice Requirement

This section ensures that the SBA is notified any time the SBIR or STTR policy directives are challenged in court.

Sec. 111. Additional SBIR and STTR Awards

The section allows SBIR and STTR applicants to receive one sequential Phase II award for a single project. It also requires agencies to verify that any activity to be performed with respect to a project with a Phase I and Phase II award has not been funded from another Federal agency.

TITLE II–COMMERCIALIZATION AND OUTREACH INITIATIVES

Sec. 201. Technical assistance for awardees

This section increases the amount of discretionary technical assistance that SBIR and STTR agencies can contract out to provide to awardees from $4,000 to $5,000 for Phase I awards and from $4,000 to $5,000 per year for Phase II awards. The provision also states that this amount shall be in addition to the amount of the recipient's award. It also requires agencies to provide SBIR and STTR award winners who wish to procure their own technical assistance with the allowable amount. Finally, the provision prohibits the agencies from using these funds to pay its contractor for technical assistance for SBIR or STTR awardees unless the contractor provides the technical assistance directly to the awardee designated by the award.

Sec. 202. Commercialization Readiness Program at Department of Defense

This section extends the SBIR Commercialization Pilot Program (CPP) at the Department of Defense permanently and extends it to the Department's STTR program. It also changed the name to the Commercialization Readiness Program (CRP). The provision authorizes the Secretary of Defense to establish goals for transitioning Phase III technologies in subcontracting plans for contracts of $100 million or more. The provision also requires the Secretary of Defense to set a goal to increase the number of Phase II contracts that lead to technology transition into programs of record or fielded systems and to use incentives to encourage agency program managers and prime contractors to meet that goal. Finally, the provision includes reporting requirements on the status of projects funded through CRP.

Sec. 203. Commercialization Readiness Pilot Program for Civilian Agencies

This section authorizes agencies other than the Department of Defense to create Commercialization Readiness Pilot Programs (using no more than ten percent of their program authorization) to support advanced development of small business technologies which are facing high manufacturing or regulatory costs. The provision authorizes these agencies to grant post-Phase II awards up to two times the regular size (up to $3 million). This section directs agencies making awards under this program to consider whether the technology to be supported by the award is likely to be manufactured in the United States. Authority to establish such a pilot program expires at the end of FY 2014.

Sec. 204. Interagency Policy Committee

This section directs the Office of Science and Technology Policy to establish an SBIR/STTR Interagency Policy Committee to review and make policy recommendations on ways to improve the effectiveness and efficiency of the SBIR and STTR programs.

Sec. 205 Clarifying Definition of Phase III

This section revises the definition of "Phase III" of the SBIR program so that it is clear that such work shall be directed toward commercial applications and derives from research and development completed in earlier phases.

Sec. 206. Shortened Period for Final Decisions on Proposals and Applications

This section requires that not later than 90 days after, and if the Administrator authorizes an extension, then not later than 180 days, from the date on which the solicitation closes for SBIR and STTR programs, that the Administrator make a decision on each proposal submitted. This section specifies that the Director of the National Institutes of Health (NIH) and the Director of the National Science Foundation (NSF) may make an award under the SBIR or STTR programs only if an application for award undergoes a technical and scientific peer review.

TITLE III–OVERSIGHT AND EVALUATION

Sec. 301. Streamlining Annual Evaluation Requirements

This section requires the Administration to report at least annually to Congress the number of proposals received from firms with venture capital, private equity, or hedge fund investment, including those owned and controlled by multiple venture capital, private equity, or hedge fund firms. It also requires the Administration to report on efforts to increase outreach to firms owned and controlled by women and socially or economically disadvantaged individuals, the implementation and compliance with the allocation of funds for firms majority owned and controlled by multiple venture capital, private equity or hedge fund companies, and appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives. Finally, the section requires the Administration to coordinate the implementation of electronic databases at the participating agencies.

Sec. 302. Data Collection From Agencies for SBIR

This section requires agencies with an SBIR program to collect data annually on several issues including: whether or not an applicant business or awardee has venture capital, private equity or hedge fund investment; if an applicant business is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms; the amount of that outside capital it has received at the time of award; if an applicant business has foreign investors and who they are; if an applicant business is owned by a woman or by a socially or economically disadvantaged individual, and finally, whether an applicant has a university affiliation. The provision also requires agencies to justify awards given that exceed the statuary guidelines. Agencies must collect data and report annually on whether or not the award winner is from a state receiving less federal research funding for small businesses than a majority of other states.

Sec. 303. Data Collection From Agencies for STTR

This section requires agencies with an STTR program to collect data annually on several issues including: whether or not an applicant business or awardee has venture capital, private equity or hedge fund investment; if an applicant business is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms; the amount of that outside capital it has received at the time of award; if an applicant business has foreign investors and who they are; if an applicant business is owned by a woman or by a socially or economically disadvantaged individual, and finally, whether an applicant has a university affiliation. The provision also requires agencies to justify awards given that exceed the statutory guidelines.

Sec. 304. Public Database

This section requires that the public database maintained by the Administrator include information on whether or not a firm receiving an award has venture capital, private equity or hedge fund investment, is majority owned and controlled by multiple venture capital, private equity, or hedge fund firms, the amount of outside capital it has received at the time of award, if it is owned by a woman or by a socially or economically disadvantaged individual, or if it has a university affiliation.

Sec. 305. Government Database

This section requires that the government database maintained by the Administrator in coordination with the agencies for the purposes of evaluation of the SBIR and STTR programs include information on the ownership structure and affiliations of awardee firms that have venture capital, private equity, or hedge fund investment, and that are majority owned and controlled by multiple venture capital, private equity, or hedge fund firms, whether or not a firm is owned by a woman, is owned by a minority, or has a university affiliation.

Sec. 306. Accuracy in Funding Base Calculations

This section requires the Comptroller General of the United States to conduct an audit of the SBIR and STTR programs to determine whether federal agencies are complying with the expenditure requirements.

Sec. 307. Continued Evaluation by the National Academy of Sciences

This section authorizes the National Academy of Sciences to continue its evaluation of the SBIR program through the end of fiscal year 2021 and requires that updates of the studies be provided to Congress every four years from the date of enactment. This section requires the National Research Council (NRC) to estimate the number of jobs created in the United States as a result of the SBIR and STTR programs.

Sec. 308. Technology Insertion Reporting Requirements

This section requires the Administration to include in its annual report to Congress information on Phase III awards issued by SBIR and STTR agencies, including the dollar amount of these awards, their recipients, and the name of the agency or the component of the agency issuing them.

Sec. 309. Obtaining Consent from SBIR and STTR Applicants to Release Contact Information to Economic Development Organizations

This section requires each Federal agency that conducts an SBIR or STTR program to enable small business concerns that are SBIR or STTR applicants to indicate whether that Federal agency has consent to identify the small business concern to local and State-level economic development organizations.

Sec. 310. Pilot to Allow Funding for Administrative, Oversight, and Contract Processing Costs

This section requires that the Administrator allow each Federal agency to not use more than three percent of the funds allocated to the SBIR programs for the first fiscal year beginning after the enactment of this subsection, and each year thereafter through fiscal 2014, for costs relating to administrative, oversight, and contract processing activities for SBIR programs that the Federal agency was not carrying out the last full fiscal year before the enactment of this subsection, as well as for the period of three years after the enactment of this subsection, for the implementation of commercialization and outreach initiatives that were not in effect on the date of the enactment of this subsection.

Sec. 311. GAO Study with Respect to Outside Investment Involvement

This section requires that not later than two years after the date of the enactment of this Act, and every two years thereafter, the Comptroller General of the United States conduct a study on the impact of requirements relating to venture capital operating company, private equity firm, and hedge fund involvement in the SBIR and STTR programs.

Sec. 312. Reducing Vulnerability of SBIR and STTR Programs to Fraud, Waste, and Abuse

This section requires the Administrator to, not later than 90 days after the enactment of this Act, amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse. Critical provisions include:

•Requiring Inspectors General of participating SBIR/STTR federal agencies to establish fraud detection measures, coordinate fraud-related information sharing between agencies, and provide fraud prevention-related education and training to agencies administering the program;

•Requiring the Small Business Administrator to amend the SBIR and STTR Policy Directives to include specific measures to prevent fraud, waste, and abuse;

•Creating a special SBIR/STTR telephone hotline that allows individuals to report fraud, waste, and abuse;

•Ordering the Government Accountability Office (GAO) to conduct a study assessing the effectiveness of federal agencies in combating fraud, waste, and abuse in the SBIR and STTR programs.

Sec. 313. Simplified Paperwork Requirements

This section directs the SBA Administrator to issue regulations or guidelines to (the extent possible) standardize SBIR and STTR application paperwork.

TITLE IV–POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives

This section requires conforming amendments to the SBA's SBIR and STTR Policy Directives within 180 days to implement the provisions of this Act. It also requires that the Administration publish the SBIR and STTR Policy Directives in the Code of Federal Regulations within 180 days.

TITLE V–OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR Program Goals

This provision directs each federal agency required to participate in an SBIR or STTR program to: (1) develop metrics in conjunction with the Interagency Policy Committee described in Sec. 204 to evaluate the effectiveness and benefit of such program; (2) conduct an annual evaluation of their program using such metrics; and (3) report evaluation results annually to the Administrator and the relevant Congressional Committees.

Sec. 502. Competitive Selection Procedures for SBIR and STTR Programs

This section requires all SBIR or STTR funds to be awarded pursuant to competitive and merit-based selection procedures.

Sec. 503. SBA Regulations on Loan Restrictions

This section requires the SBA to develop regulations solely for purposes of the SBIR program that when or how restrictive covenants in loan agreements would constitute control for purposes of affiliation.

Sec. 504 Program Diversification

This section requires federal agencies to encourage applications from small business concerns located in rural areas, areas underrepresented in SBIR and STTR programs, and areas with unemployment rates greater than the national average, as well as business concerns owned or controlled by women, veterans, and minorities.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
May 4, 2011

AMENDMENT ROSTER

H. R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011"

No.	Amendment	Summary	Results
1	Mr. Wu (010)	Extends the authorization period by 2 years for SBIR and STTR; changes it from FY 2012-2014 to FY2012-2016	Not agreed to by roll call vote 8 Yeas and 15Nays
2	Mr. Wu (011)	Would further increase the award size available for applicants for Phase II grants for both SBIR and STTR from $1 million to $1.5 million. (Current law is $750,000.)	Withdrawn
3	Mr. Tonko (026)	Would strike the language in the bill that allows a business to receive a Phase II award without first receiving a Phase I award provided the company can demonstrate they have completed equivalent work to Phase I	Not agreed to by roll call vote 9 Yeas and 19 Nays
4	Mr. Wu (009)	Adds NASA to the list of agencies that may award not more than 45% of the funds allocated for SBIR to small business concerns that are owned in majority part by multiple venture capital operating companies	Agreed to by voice vote
5	Mr. Tonko (027)	Decreases the percentage of awards that may be allocated to small business concerns that are owned in majority part by multiple venture capital operating companies from 45% to 25% for NIH, DOE, and NSF and from 35% to 15% for all other agencies	Not agreed to by roll call vote 7 Yeas and 21Nays
6	Mr. Tonko (030)	Prevents small businesses with majority backing from multiple venture capital operating companies, hedge funds, and/or private equity firms from competing for SBIR and STTR awards. Prevents a small business from competing for SBIR and STTR awards if the majority of that business's board of directors is comprised of employees of venture capital operating companies, hedge funds, and/or private equity firms	Not agreed to by voice vote
7	Mr. Tonko (028)	Adds language to the SBIR and STTR programs prohibiting large businesses or entities and foreign owned businesses or entities from participating	Not agreed to by roll call vote 10 Yeas and 19 Nays
8	Mr. Smith (018)	Alters existing law to reduce the amount of advance payments required from a small business concern entering into an agreement under section 109 from the amount necessary to cover 90 days of activities to the amount necessary to cover 30 days of activities	Agreed to by voice vote

9	Mr. Lujan (016)	Increases the percentage of an agency's extramural research budget that the agency is required to allocate to STTR from .3% to .4% for FY2012 to .5% for FY 2013 and to .6% for FY 2014	Not agreed to by voice vote
10	Mr. Tonko (029)	Clarifies that federal agencies may not enter into a contract with state-based organizations that use number of awards received as a criteria for the amount of money provided for technical assistance to small businesses	Withdrawn
11	Ms. Johnson (031)	Amends the Interagency Policy Committee to require that it also focus on ways to improve outreach and technical assistance; Requires agencies that decide to utilize a portion of the funds allocated for SBIR/STTR for administrative costs under Section 310 to use at least .5% of those funds for outreach efforts and technical assistance to specific business groups	Request to modify granted by Unanimous Consent; Not agreed to by a roll call vote 15 Yeas and17 Nays
12	Mr. Lipinski (018)	Out of the funds set-aside for STTR at NIH, requires $10 million dollars to be used to establish a pilot program to provide grants to provide researchers from universities and research institutions with initial investment and resources to support the creation of small businesses and the commercialization of research innovations	Agreed to by roll call vote 16 Yeas and 14 Nays
13	Mr. Tonko (035)	Authorizes $538 million for a program at NIH to award grants to assist in the commercialization of research funded by a previous Phase II award	Not agreed to by roll call vote 13 Yeas and 15 Nays
14	Mr. Broun (022)	Adds a number of provisions throughout the bill to monitor and prevent waste, fraud, and abuse throughout the SBIR and STTR programs including requiring the Inspector General of each agency involved in SBIR/STTR to establish practices to prevent and detect fraud and abuse	Agreed to by voice vote
14a	Edwards (010)	2nd Degree Amendment offered by Ms. Edwards	Withdrawn
15	Mr. Lujan (018)	Requires the study and report by the National Academy of Sciences in Section 108 be expanded to include a study of how the STTR program has stimulated technological innovation and used small business to meet Federal technology transfer needs.	Agreed to by voice vote
16	Mr. Rohrabacher (014)	Amends Section 504 of the bill to require Federal agencies who participate in the programs to encourage applications from small business concerns owned and controlled by persons with disabilities	Agreed to by voice vote

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AMENDMENT TO H.R. 1425

OFFERED BY MR. WU OF OREGON

Page 3, line 12, strike "2014" and insert "2016".

Page 3, line 20, strike "2014" and insert "2016".

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f:\VHLC\050211\050211.045.xml (495246|1)
May 2, 2011 (10:55 a.m.)

AMENDMENT TO H.R. 1425

OFFERED BY MR. WU OF OREGON

Page 4, line 8, strike "$1,000,000" and insert "$1,500,000".

Page 4, line 15, strike "$1,000,000" and insert "$1,500,000".

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F:\M12\TONKO\TONKO_026.XML

AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 8, lines 10 through 13, strike ''or has completed'' and all that follows through ''Phase I award''.

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f:\VHLC\050211\050211.048.xml (495248|1)
May 2, 2011 (10:59 a.m.)

AMENDMENT TO H.R. 1425

OFFERED BY MR. WU OF OREGON

Page 9, line 10, insert ''the Administrator of the National Aeronautics and Space Administration,'' after ''Secretary of Energy,''.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 9, line 12, strike "45 percent" and insert "25 percent".

Page 9, line 23, strike "35 percent" and insert "15 percent".

☒

AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 16, line 22 through page 17, line 5, amend subparagraphs (B) and (C) to read as follows:

1 "(B) venture capital operating companies,
2 hedge funds, and private equity firms in the ag-
3 gregate do not own 50 percent or more of the
4 business concern; and
5 "(C) the employees of venture capital oper-
6 ating companies, hedge funds, and private eq-
7 uity firms in the aggregate do not constitute a
8 majority of the board of directors of the busi-
9 ness concern.

AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 17, line 24, after paragraph (4) insert the following new paragraph:

1 "(5) In order to preserve and maintain the in-
2 tegrity of the SBIR and STTR programs as pro-
3 grams for small business concerns in the United
4 States, large businesses or entities and foreign
5 owned businesses or entities are prohibited from par-
6 ticipation in the SBIR and STTR programs.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. SMITH OF TEXAS

Page 20, line 17, after paragraph (3) insert the following new paragraph:

1 "(4) ADVANCE PAYMENT.—If a small business
2 concern receiving an award under this section enters
3 into an agreement with a Federal laboratory or fed-
4 erally funded research and development center for
5 portions of the activities to be performed under that
6 award, the Federal laboratory or federally funded re-
7 search and development center may not require ad-
8 vance payment from the small business concern in
9 an amount greater than the amount necessary to
10 pay for 30 days of such activities.".

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AMENDMENT TO H.R. 1425

OFFERED BY MR. LUJÁN OF NEW MEXICO

Page 22, after line 9, insert the following new section:

SEC. 112. STTR ALLOCATION ADJUSTMENT.

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

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking ''thereafter.'' and inserting ''through fiscal year 2011;''; and

(3) by adding at the end the following:

''(iii) 0.4 percent for fiscal year 2012;

''(iv) 0.5 percent for fiscal year 2013; and

''(v) 0.6 percent for fiscal year 2014 and each fiscal year thereafter.''.

☒

AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 24, line 13, insert ", or an organization authorized to facilitate participation in the SBIR or STTR program in a State," after "with a vendor".

☒

AMENDMENT TO H.R. 1425
OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Page 31, after line 23, insert the following new paragraph:

1 (5) Outreach and technical assistance activities
2 to increase the participation of small businesses
3 underrepresented in the SBIR and STTR programs,
4 including identifying and sharing best practices and
5 leveraging resources in support of such activities
6 across agencies.

Page 61, line 11, strike "paragraph (2)" and insert "paragraph (3)".

Page 63, lines 6 and 13, redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

Page 63, after line 5, insert the following new paragraph:

7 "(2) OUTREACH AND TECHNICAL ASSIST-
8 ANCE.—
9 "(A) IN GENERAL.—Except as provided in
10 subparagraph (B), a Federal agency partici-

pating in the program under this subsection shall use at least 0.5 percent of the funds allocated to the SBIR program of the Federal agency for outreach and technical assistance activities described in paragraph (1)(B) directed at one or more of the following:

"(i) Small business concerns in geographic areas underrepresented in the SBIR and STTR programs or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986).

"(ii) Small business concerns owned and controlled by women.

"(iii) Small business concerns owned and controlled by veterans.

"(iv) Small business concerns owned and controlled by minorities.

"(v) Small business concerns located in a geographic area with an unemployment rate that exceeds the national unemployment rate.

"(B) WAIVER.—

"(i) APPLICATION.—A Federal agency may submit an application to the Adminis-

1 trator to waive the requirement contained
2 in subparagraph (A), which shall include
3 an explanation of why the waiver is nec-
4 essary and appropriate.
5 "(ii) WRITTEN DETERMINATION.—
6 The Administrator shall make a written
7 determination with respect to each applica-
8 tion submitted under clause (i). If the Ad-
9 ministrator finds that the waiver applied
10 for is necessary and appropriate, the Ad-
11 ministrator shall grant the waiver.
12 "(iii) CONGRESSIONAL NOTIFICA-
13 TION.—The Administrator shall submit
14 any written determination made under
15 clause (ii) to the Committee on Small
16 Business and Entrepreneurship of the Sen-
17 ate, and to the Committee on Small Busi-
18 ness and the Committee on Science, Space,
19 and Technology of the House of Represent-
20 atives, along with the application with re-
21 spect to which the written determination
22 applies.

AMENDMENT TO H.R. 1425

OFFERED BY MR. LIPINSKI OF ILLINOIS

Page 41, after line 13, insert the following new section:

1 **SEC. 207. PHASE 0 PROOF OF CONCEPT PARTNERSHIP**
2 **PILOT PROGRAM.**

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

6 "(kk) PHASE 0 PROOF OF CONCEPT PARTNERSHIP
7 PILOT PROGRAM.—

8 "(1) IN GENERAL.—The Director of the Na-
9 tional Institutes of Health shall use $10,000,000 of
10 the funds allocated under subsection (n)(1) for a
11 Proof of Concept Partnership pilot program to accel-
12 erate the creation of small businesses and the com-
13 mercialization of research innovations from quali-
14 fying institutions. To implement this program, the
15 Director shall award, through a competitive, merit-
16 based process, grants to qualifying institutions.
17 These grants shall only be used to administer Proof
18 of Concept Partnership awards in conformity with
19 this subsection.

1 "(2) DEFINITIONS.—In this subsection—

2 "(A) the term 'Director' means the Direc-
3 tor of the National Institutes of Health;

4 "(B) the term 'pilot program' refers to the
5 Proof of Concept Partnership pilot program;
6 and

7 "(C) the terms 'qualifying institution' and
8 'institution' mean a university or other research
9 institution that participates in the National In-
10 stitutes of Health's STTR program.

11 "(3) PROOF OF CONCEPT PARTNERSHIPS.—

12 "(A) IN GENERAL.—A Proof of Concept
13 Partnership shall be set up by a qualifying in-
14 stitution to award grants to individual research-
15 ers. These grants should provide researchers
16 with the initial investment and the resources to
17 support the proof of concept work and commer-
18 cialization mentoring needed to translate prom-
19 ising research projects and technologies into a
20 viable company. This work may include tech-
21 nical validations, market research, clarifying in-
22 tellectual property rights position and strategy
23 and investigating commercial or business oppor-
24 tunities.

"(B) AWARD GUIDELINES.—The administrator of a Proof of Concept Partnership program shall award grants in accordance with the following guidelines:

"(i) The Proof of Concept Partnership shall use a market-focused project management oversight process, including—

"(I) a rigorous, diverse review board comprised of local experts in translational and proof of concept research, including industry, start-up, venture capital, technical, financial, and business experts and university technology transfer officials;

"(II) technology validation milestones focused on market feasibility;

"(III) simple reporting effective at redirecting projects; and

"(IV) the willingness to reallocate funding from failing projects to those with more potential.

"(ii) Not more than $100,000 shall be awarded towards an individual proposal.

"(C) EDUCATIONAL RESOURCES AND GUIDANCE.—The administrator of a Proof of

Concept Partnership program shall make educational resources and guidance available to researchers attempting to commercialize their innovations.

"(4) AWARDS.—

"(A) SIZE OF AWARD.—The Director may make awards to a qualifying institution for up to $1,000,000 per year for up to 3 years.

"(B) AWARD CRITERIA.—In determining which qualifying institutions receive pilot program grants, the Director shall consider, in addition to any other criteria the Director determines necessary, the extent to which qualifying institutions—

"(i) have an established and proven technology transfer or commercialization office and have a plan for engaging that office in the program implementation;

"(ii) have demonstrated a commitment to local and regional economic development;

"(iii) are located in diverse geographies and are of diverse sizes;

"(iv) can assemble project management boards comprised of industry, start-

up, venture capital, technical, financial, and business experts;

"(v) have an intellectual property rights strategy or office; and

"(vi) demonstrate a plan for sustainability beyond the duration of the funding award.

"(5) LIMITATIONS.—The funds for the pilot program shall not be used—

"(A) for basic research, but to evaluate the commercial potential of existing discoveries, including—

"(i) proof of concept research or prototype development; and

"(ii) activities that contribute to determining a project's commercialization path, to include technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities; or

"(B) to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

"(6) EVALUATIVE REPORT.—The Director shall submit to the Committee on Science, Space, and

Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an evaluative report regarding the activities of the pilot program. The report shall include—

"(A) a detailed description of the institutional and proposal selection process;

"(B) an accounting of the funds used in the pilot program;

"(C) a detailed description of the pilot program, including incentives and activities undertaken by review board experts;

"(D) a detailed compilation of results achieved by the pilot program, including the number of small business concerns included and the number of business packages developed, and the number of projects that progressed into subsequent STTR phases; and

"(E) an analysis of the program's effectiveness with supporting data.

"(7) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2014.".

AMENDMENT TO H.R. 1425

OFFERED BY MR. TONKO OF NEW YORK

Page 41, after line 13, insert the following new section:

1 **SEC. 207. COMMERCIALIZATION GRANTS TO SMALL BUSI-**
2 **NESSES RECEIVING CERTAIN SBIR SECOND**
3 **PHASE FUNDS.**

4 (a) ESTABLISHMENT.—The Director is authorized to
5 make grants on a competitive basis to small business con-
6 cerns to assist the commercialization of research developed
7 by such small business concerns with funds received under
8 the second phase of the Small Business Innovation Re-
9 search Program.

10 (b) ELIGIBILITY.—The Director may only award a
11 grant under this section to a small business concern
12 that—

13 (1) received second phase funds from the Na-
14 tional Institutes of Health during fiscal year 2007 or
15 2008, or both;

16 (2) continues to meet the criteria for receiving
17 second phase funds at the time the grant is award-
18 ed, except for any such criteria that the Director de-
19 termines are no longer applicable;

(3) has not previously received a grant under this section for the commercialization of the same research; and

(4) submits an application at such time and in such form as the Director may require, including—

(A) a description of the commercialization project for which the small business concern will use the grant funds;

(B) the budget for such project; and

(C) a certification that the small business concern meets the criteria described in paragraph (2).

(c) GRANT AMOUNT.—A grant under this section shall be in an amount the Director considers appropriate, but such grant shall not exceed $1,000,000.

(d) DEFINITIONS.—In this section—

(1) the term ''Director'' means the Director of the National Institutes of Health; and

(2) the terms ''research'', ''second phase'', and ''Small Business Innovation Research Program'' have the meanings given such terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $538,000,000 for fiscal year 2012.

AMENDMENT TO H.R. 1425

OFFERED BY MR. BROUN OF GEORGIA

Page 50, strike lines 24 and 25 and insert the following:

"(v) the names and titles of the key individuals that will carry out the project, the position each key individual holds in the small business concern, and contact information for each key individual;

Page 53, strike lines 22 through 24 and insert the following:

program that has been—

"(i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or

"(ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program."; and

Page 57, strike line 12 and all that follows through page 58, line 6, and insert the following:

"(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1);

"(B) make recommendations with respect to the issues described in subparagraphs (A), (D), and (E) of subsection (a)(2); and

Page 62, line 7, strike "the waste," and all that follows through "2011" on line 11 and insert "waste, fraud, and abuse prevention activities".

Page 63, line 16, strike the quotation marks and the second period and insert the following:

"(4) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than $50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.".

Page 66, strike lines 18 through 20 and insert the following:

1 (1) AMENDMENTS REQUIRED FOR FRAUD,
2 WASTE, AND ABUSE PREVENTION.—Not later

Page 67, strike line 3 and all that follows through page 69, line 6, and insert the following:

3 (2) CONTENT OF AMENDMENTS.—The amend-
4 ments required under paragraph (1) shall include—
5 (A) definitions or descriptions of fraud,
6 waste, and abuse;
7 (B) guidelines for the monitoring and over-
8 sight of applicants to and recipients of awards
9 under the SBIR program or the STTR pro-
10 gram;
11 (C) a requirement that each Federal agen-
12 cy that participates in the SBIR program or
13 STTR program include information concerning
14 the method established by the Inspector Gen-
15 eral of the Federal agency to report fraud,
16 waste, and abuse (including any telephone hot-
17 line or Web-based platform)—
18 (i) on the website of the Federal agen-
19 cy; and

(ii) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program; and

(D) a requirement that each applicant for and small business concern that receives funding under the SBIR program or the STTR program shall certify whether the applicant or small business concern is in compliance with the laws relating to the SBIR program and the STTR program and the conduct guidelines established under the SBIR Policy Directive and the STTR Policy Directive.

(3) CONSULTATION.—The Administrator shall develop the certification required under paragraph (2)(D) in cooperation with the Council of Inspectors General on Integrity and Efficiency and the Office of Advocacy of the Administration.

(4) INSPECTORS GENERAL.—The Inspector General of each Federal agency that participates in the SBIR program or STTR program shall cooperate to prevent fraud, waste, and abuse in the SBIR program and the STTR program by—

(A) establishing fraud detection indicators;

1 (B) reviewing regulations and operating
2 procedures of the Federal agency;
3 (C) coordinating information sharing be-
4 tween Federal agencies, to the extent otherwise
5 permitted under Federal law; and
6 (D) improving the education and training
7 of, and outreach to—
8 (i) administrators of the SBIR pro-
9 gram and the STTR program of the Fed-
10 eral agency;
11 (ii) applicants to the SBIR program
12 or the STTR program; and
13 (iii) recipients of awards under the
14 SBIR program or the STTR program.

Page 69, beginning on line 8, strike ", and every 3 years thereafter," and insert "to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 3 years thereafter to evaluate the effectiveness of the agency strategies,".

Page 70, strike lines 12 through 18 and insert the following:

15 (F) the extent to which the Inspector Gen-
16 eral of each Federal agency that participates in
17 the SBIR and STTR program effectively con-

1 ducts investigations, audits, inspections, and
2 outreach relating to the SBIR and STTR pro-
3 grams of the Federal agency; and

Page 72, between lines 6 and 7, insert the following:

4 **SEC. 314. REDUCING FRAUD, WASTE, AND ABUSE.**

5 Not later than 4 years after the date of enactment
6 of this Act, and every 4 years thereafter, the Comptroller
7 General of the United States shall—

8 (1) conduct a study of the effectiveness of the
9 government and public databases described in sec-
10 tion 9(k) of the Small Business Act (15 U.S.C.
11 638(k)) in reducing vulnerabilities of the SBIR pro-
12 gram and the STTR program to fraud, waste, and
13 abuse, particularly with respect to Federal agencies
14 funding duplicative proposals and business concerns
15 falsifying information in proposals;

16 (2) make recommendations with respect to the
17 issues described in paragraph (1); and

18 (3) submit to the head of each agency described
19 in section 108(a) of the Small Business Reauthoriza-
20 tion Act of 2000 (15 U.S.C. 638 note), the Com-
21 mittee on Small Business and Entrepreneurship of
22 the Senate, and the Committee on Small Business
23 and the Committee on Science, Space, and Tech-

1 nology of the House of Representatives a report re-
2 garding the study conducted under paragraph (1)
3 and containing the recommendations described in
4 paragraph (2).

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AMENDMENT OFFERED BY MS. EDWARDS OF MARYLAND TO THE AMENDMENT OFFERED BY MR. BROUN OF GEORGIA

Page 4, after line 13, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

1 (3) CERTIFICATION.—The certification de-
2 scribed in paragraph (2)(D) shall—
3 (A) cover the lifecycle of the award to re-
4 quire certifications at the application, funding,
5 reporting, and closeout phases of every SBIR
6 and STTR award;
7 (B) require the small business concern to
8 certify compliance with the "principal investi-
9 gator primary employment" requirement, the
10 "small business concern" definition require-
11 ment, and the "performance of work" require-
12 ments as set forth in the Directive applicable to
13 the award;
14 (C) require the small business concern to
15 disclose whether it has applied for, plans to
16 apply for, or received an SBIR or STTR award
17 for the same or overlapping work, and require

1 the concern to certify that the award that it is
2 applying for or obtaining funding for is not the
3 same or overlapping with work it has per-
4 formed, or will perform, in connection with any
5 other SBIR or STTR award that the concern
6 has applied for or received from any other
7 agency except as fully disclosed to all funding
8 agencies; and
9 (D) require that the small business con-
10 cern certify that it will or did perform the work
11 on the award at its facilities with its employees,
12 unless otherwise indicated.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. LUJÁN OF NEW MEXICO

Page 56, line 23, through page 59, line 4, amend subsection (e) to read as follows:

1 "(e) EXTENSIONS AND ENHANCEMENTS OF AUTHOR-
2 ITY.—
3 "(1) IN GENERAL.—Not later than 6 months
4 after the date of enactment of the Creating Jobs
5 Through Small Business Innovation Act of 2011,
6 the head of each agency described in subsection (a),
7 in consultation with the Small Business Administra-
8 tion, shall cooperatively enter into an agreement
9 with the National Academy of Sciences for the Na-
10 tional Research Council to, not later than 4 years
11 after the date of enactment of the Creating Jobs
12 Through Small Business Innovation Act of 2011,
13 and every 4 years thereafter—
14 "(A) continue the most recent study under
15 this section relating to—
16 "(i) the issues described in subpara-
17 graphs (A), (B), (C), and (E) of subsection
18 (a)(1); and

"(ii) the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

"(B) conduct a comprehensive study of how the STTR program has stimulated technological innovation and technology transfer, including—

"(i) a review of the collaborations created between small businesses and research institutions, including an evaluation of the effectiveness of the program in stimulating new collaborations and any obstacles that may prevent or inhibit the creation of such collaborations;

"(ii) an evaluation of the effectiveness of the program at transferring technology and capabilities developed through Federal funding;

"(iii) an evaluation of the program's success at commercializing technologies compared with other Federal technology transfer programs and the SBIR program;

"(iv) to the extent practicable, an evaluation of the economic benefits achieved by the STTR program, including the economic rate of return;

"(v) an analysis of how Federal agencies are using small businesses that have completed Phase II under the STTR program to fulfill their procurement needs; and

"(vi) an analysis of whether the existing STTR allocation has impacted the effectiveness of the program in achieving its goals.

"(C) make recommendations with respect to the issues described in subparagraph (A), (D), and (E) of subsection (a)(2) and subparagraph (B) of this paragraph; and

"(D) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

"(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure that there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

"(3) REPORTING.—An agreement under paragraph (1) shall require that—

"(A) not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1); and

"(B) not later than 2 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, the National Research Council shall submit to the

1 head of the agency entering into the agreement,
2 the Committee on Small Business and Entre-
3 preneurship of the Senate, and the Committee
4 on Small Business and the Committee on
5 Science, Space, and Technology of the House of
6 Representatives, a report of preliminary find-
7 ings and recommendations regarding the study
8 conducted under paragraph (1)(B).''.

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AMENDMENT TO H.R. 1425

OFFERED BY MR. ROHRABACHER OF CALIFORNIA

Page 76, line 15, strike ''and''.

Page 76, line 16, redesignate paragraph (5) as paragraph (6).

Page 76, after line 15, insert the following new paragraph:

1 (5) small business concerns owned and con-
2 trolled by people with disabilities; and

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