

106TH CONGRESS  
1ST SESSION

# H. R. 2392

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 1999

Received; read twice and referred to the Committee on Small Business

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## AN ACT

To amend the Small Business Act to extend the authorization for the Small Business Innovation Research Program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Small Business Inno-  
3 vation Research Program Reauthorization Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the small business innovation research pro-  
7 gram established under the Small Business Innova-  
8 tion Development Act of 1982 and reauthorized by  
9 the Small Business Research and Development En-  
10 hancement Act of 1992 (in this section referred to  
11 as the “SBIR program”) is highly successful in in-  
12 volving small businesses in federally funded research  
13 and development;

14 (2) the SBIR program made the cost-effective  
15 and unique research and development capabilities  
16 possessed by the small businesses of this Nation  
17 available to Federal agencies and departments;

18 (3) the innovative goods and services developed  
19 by small businesses that participated in the SBIR  
20 program have produced innovations of critical impor-  
21 tance in a wide variety of high-technology fields, in-  
22 cluding biology, medicine, education, and defense;

23 (4) the SBIR program is a catalyst in the pro-  
24 motion of research and development, the commer-  
25 cialization of innovative technology, the development  
26 of new products and services, and the continued ex-

1       cellence of this Nation’s high-technology industries;  
2       and

3               (5) the continuation of the SBIR program will  
4       provide expanded opportunities for one of the Na-  
5       tion’s vital resources, its small businesses, will foster  
6       invention, research, and technology, will create jobs,  
7       and will increase this Nation’s competitiveness in  
8       international markets.

9       **SEC. 3. EXTENSION OF SBIR PROGRAM.**

10       Section 9(m) of the Small Business Act (15 U.S.C.  
11       638(m)) is amended to read as follows:

12       “(m) **TERMINATION.**—The authorization to carry out  
13       the Small Business Innovation Research Program estab-  
14       lished under this section shall terminate on September 30,  
15       2007.”.

16       **SEC. 4. ANNUAL REPORT.**

17       Section 9(b)(7) of the Small Business Act (15 U.S.C.  
18       638(b)(7)) is amended by striking “and the Committee on  
19       Small Business of the House of Representatives” and in-  
20       serting “, and to the Committee on Science and the Com-  
21       mittee on Small Business of the House of Representa-  
22       tives,”.

1 **SEC. 5. THIRD PHASE ASSISTANCE.**

2 Section 9(e)(4)(C)(i) of the Small Business Act (15  
3 U.S.C. 638(e)(4)(C)(i)) is amended by striking “; and”  
4 and inserting “; or”.

5 **SEC. 6. RIGHTS TO DATA.**

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

9 “(3) **ADDITIONAL MODIFICATIONS.**—Not later  
10 than 90 days after the enactment of the Small Busi-  
11 ness Innovation Research Program Reauthorization  
12 Act of 1999, the Administrator shall modify the pol-  
13 icy directives issued pursuant to this subsection to  
14 clarify that the rights provided for under subpara-  
15 graph (2)(A) of this subsection apply to all Federal  
16 funding awards falling under the definitions of ‘first  
17 phase’, ‘second phase’, or ‘third phase’, as specified  
18 in subsection (e)(4).”.

19 **SEC. 7. REPORT ON PROGRAMS FOR ANNUAL PERFORM-**  
20 **ANCE PLAN.**

21 Section 9(g) of the Small Business Act (15 U.S.C.  
22 638(g)) is amended—

23 (1) in paragraph (7), by striking “and” at the  
24 end;

25 (2) in paragraph (8), by striking the period at  
26 the end and inserting “; and”; and

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

3           “(9) include, as part of its annual performance  
4 plan as required by subsections (a) and (b) of sec-  
5 tion 1115 of title 31, United States Code, a section  
6 on its SBIR program, and shall submit such section  
7 to the Committee on Small Business of the Senate,  
8 and the Committee on Science and the Committee  
9 on Small Business of the House of Representa-  
10 tives.”.

11 **SEC. 8. OUTPUT AND OUTCOME DATA.**

12           (a) COLLECTION.—Section 9(g) of the Small Busi-  
13 ness Act (15 U.S.C. 638(g)) is amended—

14           (1) by striking “and” at the end of paragraph  
15 (7);

16           (2) by striking the period at the end of para-  
17 graph (8) and inserting “; and”; and

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

20           “(9) collect and include in the report required  
21 by paragraph (8) such data from awardees as is nec-  
22 essary to assess SBIR program outputs and out-  
23 comes, including data necessary to maintain the  
24 data base described in subsection (k).”.

1           (b) REPORT TO CONGRESS.—Section 9(b)(7) of the  
2 Small Business Act (15 U.S.C. 638(b)(7)) is further  
3 amended by inserting “, including the data on output and  
4 outcomes collected pursuant to subsections (g)(8) and  
5 (o)(9) and a description of the extent to which Federal  
6 agencies are providing in a timely manner information  
7 needed to maintain the data base described in subsection  
8 (k)” before the period at the end.

9           (c) DATA BASE.—Section 9 of the Small Business  
10 Act (15 U.S.C. 638) is amended by adding after sub-  
11 section (j) the following new subsection:

12           “(k) DATA BASE.—

13                   “(1) PUBLIC DATA BASE.—Not later than 180  
14 days after the date of the enactment of the Small  
15 Business Innovation Research Program Reauthoriza-  
16 tion Act of 1999, the Administrator shall develop,  
17 maintain, and make available to the public a search-  
18 able, up-to-date, electronic data base that includes—

19                           “(A) the name, size, and location, and an  
20 identifying number assigned by the Administra-  
21 tion, of each small business concern that has re-  
22 ceived a first phase or second phase SBIR  
23 award from a Federal agency; and

1           “(B) a description of each first phase or  
2           second phase SBIR award received by that  
3           small business concern, including—

4                   “(i) an abstract of the project funded  
5                   by the award;

6                   “(ii) the Federal agency making the  
7                   award; and

8                   “(iii) the date and amount of the  
9                   award.

10           “(2) GOVERNMENT DATA BASE.—Not later  
11           than 180 days after the date of the enactment of the  
12           Small Business Innovation Research Program Reau-  
13           thorization Act of 1999, the Administrator, in con-  
14           sultation with Federal agencies required to have an  
15           SBIR program pursuant to subsection (f)(1), shall  
16           develop and maintain a data base to be used for  
17           SBIR program evaluation that—

18                   “(A) contains information, for each second  
19                   phase award made by a Federal agency, on—

20                           “(i) revenue from the sale of new  
21                           products or services (other than research  
22                           or research and development services) re-  
23                           sulting from the technology developed  
24                           under the award; and

1           “(ii) additional investment from any  
2           source, other than the SBIR or STTR pro-  
3           gram, in activities that further the develop-  
4           ment or commercialization of the tech-  
5           nology developed under the award, with  
6           commercialization investment identified  
7           separately;

8           “(B) includes any brief narrative informa-  
9           tion that a small business concern receiving a  
10          second phase award submits to further describe  
11          the outputs and outcomes of its award;

12          “(C) includes for each applicant for a first  
13          phase or second phase award which does not re-  
14          ceive an award—

15                 “(i) the name, size, and location, and  
16                 an identifying number assigned by the Ad-  
17                 ministration;

18                 “(ii) an abstract of the project; and

19                 “(iii) the Federal agency to which the  
20                 application was made; and

21          “(D) is available for use only for program  
22          evaluation purposes by the Federal Government  
23          or by other authorized persons who are subject  
24          to a use and nondisclosure agreement with the

1 Federal Government covering the use of the  
2 data base.

3 “(3) PROTECTION OF INFORMATION.—Informa-  
4 tion provided under paragraph (2) shall be consid-  
5 ered privileged and confidential and not subject to  
6 disclosure pursuant to section 552 of title 5, United  
7 States Code.”.

8 **SEC. 9. AWARD AMOUNT AND DURATION.**

9 Section 9(j) of the Small Business Act (15 U.S.C.  
10 638(j)) is further amended by adding at the end the fol-  
11 lowing new paragraph:

12 “(4) FURTHER MODIFICATION.—Not later than  
13 30 days after the date of enactment of the Small  
14 Business Innovation Research Program Reauthoriza-  
15 tion Act of 1999, the Administrator shall modify the  
16 policy directives issued pursuant to this subsection  
17 to—

18 “(A) authorize awards exceeding the  
19 amounts established under paragraph (2)(D) or  
20 for time periods greater than those established  
21 pursuant to this subsection;

22 “(B) require agencies to give preference  
23 when providing second phase awards that ex-  
24 ceed the amounts established under paragraph

1           (2)(D) to projects that have met the require-  
2           ments of subsection (e)(4)(B)(ii) and (iii); and  
3           “(C) require that notice of and a justifica-  
4           tion for any award described in subparagraph  
5           (A) be included in the report required under  
6           subsection (g)(8).”.

7 **SEC. 10. SECOND PHASE COMMERCIAL PLAN.**

8           Section 9(j)(2) of the Small Business Act (15 U.S.C.  
9 638(j)(2)) is further amended—

10           (1) by striking “and” at the end of subpara-  
11           graph (H);

12           (2) by striking the period at the end of sub-  
13           paragraph (I) and inserting “; and”; and

14           (3) by adding at the end the following new sub-  
15           paragraph:

16           “(J) the requirement of a commercial plan  
17           with each application for a second phase  
18           award.”.

19 **SEC. 11. NATIONAL RESEARCH COUNCIL REPORT.**

20           (a) **STUDY AND RECOMMENDATIONS.**—The heads of  
21           each agency with a budget of more than \$65,000,000 for  
22           its SBIR program for fiscal year 1999 shall, not later than  
23           6 months after the date of the enactment of this Act, coop-  
24           eratively enter into an agreement with the National Re-  
25           search Council for such Council, in consultation with the

1 Office of Advocacy of the Small Business Administration  
2 and other interested parties, to—

3 (1) conduct a comprehensive study of how the  
4 Small Business Innovation Research Program has  
5 stimulated technological innovation and used small  
6 businesses to meet Federal research and develop-  
7 ment needs, including—

8 (A) a review of the importance that Fed-  
9 eral research agencies are assigning to the  
10 Small Business Innovation Research Program,  
11 and of the quality of research being conducted  
12 under such program;

13 (B) an evaluation of the economic rate of  
14 return of the Small Business Innovation Re-  
15 search Program over the life of the program;

16 (C) a comparison of the rate of techno-  
17 logical innovation by small businesses with that  
18 of large businesses and universities;

19 (D) a comparison of the allocation for fis-  
20 cal year 1999 of Federal research and develop-  
21 ment funds to small businesses with such allo-  
22 cation for fiscal year 1983; and

23 (E) an analysis of whether Federal agen-  
24 cies, in fulfilling their procurement needs, are

1 making sufficient effort to use small businesses  
2 that have completed a second phase award; and  
3 (2) make recommendations with respect to—

4 (A) measures of outcomes for strategic  
5 plans submitted under section 306 of title 5,  
6 United States Code, and performance plans  
7 submitted under section 1115 of title 31,  
8 United States Code, of each Federal agency  
9 participating in the Small Business Innovation  
10 Research Program;

11 (B) whether companies who can dem-  
12 onstrate project feasibility, but who have not re-  
13 ceived a first phase award, should be eligible for  
14 second phase awards, and the potential impacts  
15 of such awards on the competitive selection  
16 process of the program;

17 (C) whether the Federal Government  
18 should be permitted to recoup some or all of its  
19 expenses if a controlling interest in a company  
20 receiving an SBIR award is sold to a foreign  
21 company or to a company which is not a small  
22 business concern;

23 (D) how to increase the use by the Federal  
24 Government in its programs and procurements  
25 of technology-oriented small businesses; and

1 (E) improvements to the SBIR program.

2 (b) REPORT.—Not later than 4 years after the date  
3 of the enactment of this Act, the heads of agencies enter-  
4 ing into an agreement under this section shall coopera-  
5 tively transmit to the Committee on Science and the Com-  
6 mittee on Small Business of the House of Representatives,  
7 and to the Committee on Small Business of the Senate,  
8 a report including the results of the study conducted under  
9 subsection (a)(1) and recommendations made under sub-  
10 section (a)(2).

Passed the House of Representatives September 27,  
1999.

Attest:

JEFF TRANDAHL,

*Clerk.*