

Union Calendar No. 687

114TH CONGRESS
2^D SESSION

H. R. 4783

[Report No. 114-705, Part I]

To reauthorize and improve the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2016

Mr. CHABOT (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Science, Space, and Technology, 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

JULY 25, 2016

Reported from the Committee on Small Business

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 25, 2016

Referral to the Committee on Science, Space, and Technology extended for a period ending not later than December 16, 2016

DECEMBER 16, 2016

The Committee on Science, Space, and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 17, 2016]

A BILL

To reauthorize and improve the Small Business Innovation Research Program and the Small Business Technology Transfer 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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Commercializing on*
5 *Small Business Innovation Act of 2016”.*

6 **SEC. 2. EXTENSION OF TERMINATION DATES.**

7 *(a) SBIR.—Section 9(m) of the Small Business Act*
8 *(15 U.S.C. 638(m)) is amended by striking “2017” and in-*
9 *serting “2022”.*

10 *(b) STTR.—Section 9(n)(1)(A) of the Small Business*
11 *Act (15 U.S.C. 638(n)(1)(A)) is amended by striking*
12 *“2017” and inserting “2022”.*

13 *(c) ADMINISTRATIVE FUNDING.—Section 9(mm)(1) of*
14 *the Small Business Act (15 U.S.C. 638(mm)(1)) is amended*
15 *by striking “2017” and inserting “2022”.*

16 **SEC. 3. REQUIRED EXPENDITURE AMOUNTS.**

17 *(a) SBIR.—Section 9(f)(1) of the Small Business Act*
18 *(15 U.S.C. 638(f)(1)) is amended—*

19 *(1) in subparagraph (H), by striking the “and”*
20 *at the end;*

21 *(2) in subparagraph (I), by striking “and each*
22 *fiscal year thereafter,” and inserting a semicolon; and*

23 *(3) by inserting after subparagraph (I) the fol-*
24 *lowing new subparagraphs:*

1 “(J) not less than 3.46 percent of such
2 budget in fiscal year 2018;

3 “(K) not less than 3.72 percent of such
4 budget in fiscal year 2019;

5 “(L) not less than 3.98 percent of such
6 budget in fiscal year 2020;

7 “(M) not less than 4.24 percent of such
8 budget in fiscal year 2021; and

9 “(N) not less than 4.50 percent of such
10 budget in fiscal year 2022 and each fiscal year
11 thereafter.”.

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

14 (1) in clause (iv), by striking the “and” at the
15 end;

16 (2) in clause (v), by striking “for fiscal year
17 2016 and each fiscal year thereafter.” and inserting
18 “for each of fiscal years 2016 and 2017;” ; and

19 (3) by adding at the end the following new
20 clauses:

21 “(vi) 0.50 percent for each of fiscal
22 years 2018 and 2019;

23 “(vii) 0.55 percent for each of fiscal
24 years 2020 and 2021; and

1 “(viii) 0.60 percent for fiscal year
2 2022 and each fiscal year thereafter.”.

3 **SEC. 4. REPORTING REQUIREMENTS.**

4 (a) *ANNUAL REPORT TO CONGRESS.*—Section 9(b)(7)
5 *of the Small Business Act (15 U.S.C. 638(b)(7)) is amended*
6 *by striking “to report not less than annually” and inserting*
7 *“to submit a report not later than December 31 of each*
8 *year”.*

9 (b) *ANNUAL REPORTS TO THE ADMINISTRATOR RE-*
10 *QUIRED TO BE SUBMITTED NOT LATER THAN MARCH 30*
11 *OF EACH YEAR.*—Section 9 of the Small Business Act (15
12 *U.S.C. 638) is amended—*

13 (1) *in subsection (g)(9), by striking “make an*
14 *annual report” and inserting “not later than March*
15 *30 of each year, submit a report”;*

16 (2) *in subsection (i)(1), by striking “shall report*
17 *annually to the Small Business Administration” and*
18 *inserting “shall, not later than March 30 of each*
19 *year, submit a report to the Small Business Adminis-*
20 *tration that includes”;*

21 (3) *in subsection (j)—*

22 (A) *in paragraph (1)(E), by striking “sim-*
23 *plified, standardized, and timely annual report”*
24 *and inserting “not later than March 30 of each*
25 *year, a simplified and standardized report”;* and

1 (B) in paragraph (3)(C), by striking “to re-
2 quire agencies to report to the Administration,
3 not less frequently than annually, all instances
4 in which an” and inserting “to require each
5 agency, not later than March 30 of each year, to
6 submit a report to the Administration on all in-
7 stance in which the”;

8 (4) in subsection (o)(10), by striking “submit an
9 annual report” and inserting “not later than March
10 30 of each year, submit a report”;

11 (5) in subsection (y)(6)(C), by striking “submit”
12 and inserting “not later than March 30 of each year,
13 submit”;

14 (6) in subsection (dd)(4)(A), by striking “and
15 submit” and inserting “and, not later than March 30
16 of each year, submit”;

17 (7) in subsection (gg)(6), by striking “include in
18 the annual” and inserting “include, not later than
19 March 30 of each year, a”;

20 (8) in subsection (ii) by inserting “, not later
21 than March 30 of each year,” after “shall”;

22 (9) in subsection (mm)(6), by inserting “, not
23 later than June 30 of each year,” after “shall”;

24 (10) in subsection (nn)(3)(A)—

1 (A) by striking “an annual” and inserting
2 “a” ; and

3 (B) by inserting “, not later than March 30
4 of each year,” after “shall”; and

5 (11) in subsection (ss), by striking “October 1,
6 2013, and annually thereafter,” and inserting “March
7 30 of each year,”.

8 (c) *FAILURE TO REPORT ADMINISTRATIVE FUNDS.*—
9 Section 9(mm) of the Small Business Act (15 U.S.C.
10 638(mm)) is amended by adding at the end the following
11 new paragraph:

12 “(7) *FAILURE TO REPORT ADMINISTRATIVE*
13 *FUNDS.*—

14 “(A) *IN GENERAL.*—Not later than March
15 30 following each fiscal year for which funds are
16 authorized to be used by a Federal agency under
17 paragraph (1), the Federal agency shall submit
18 a report to the Administrator that identifies how
19 the Federal agency used such funds during such
20 fiscal year.

21 “(B) *FAILURE TO SUBMIT A REPORT.*—If a
22 Federal agency fails to submit a report required
23 under subparagraph (A), paragraph (1) shall not
24 apply to such Federal agency unless—

25 “(i) such report is submitted; and

1 “(ii) such Federal agency submits an
2 additional report to the Administrator that
3 identifies how such Federal agency plans to
4 ensure timely reporting under this para-
5 graph.”.

6 **SEC. 5. INDEXING AWARDS FOR INFLATION.**

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

9 (1) in subsection (j)(2)—

10 (A) by striking subparagraph (D);

11 (B) by redesignating subparagraphs (E)
12 through (I) as subparagraphs (D) through (H),
13 respectively; and

14 (C) in subparagraph (H), as so redesign-
15 ated, by striking “subparagraph (H)” and in-
16 serting “subparagraph (G)”;

17 (2) in subsection (p)(2)(B)—

18 (A) in clause (vii), by adding “and” at the
19 end;

20 (B) in clause (viii), by striking “and” at
21 the end; and

22 (C) by striking clause (ix);

23 (3) in subsection (gg)(3), by striking “awards
24 under subsection (j)(2)(D) or (p)(2)(B)(ix).” and in-
25 serting “awards under subsection (tt)(2).”; and

1 (4) *by adding at the end the following new sub-*
2 *section:*

3 “(tt) *AWARDS UNDER PHASE I AND PHASE II AD-*
4 *JUSTED FOR INFLATION.—*

5 “(1) *PHASE I AWARDS.—An award for Phase I*
6 *of an SBIR or STTR program may not exceed*
7 *\$150,000.*

8 “(2) *PHASE II AWARDS.—An award for Phase II*
9 *of an SBIR or STTR program may not exceed*
10 *\$1,000,000.*

11 “(3) *ADJUSTMENT FOR INFLATION.—The Admin-*
12 *istrator shall adjust the dollar amounts under para-*
13 *graphs (1) and (2) for inflation in accordance with*
14 *section 1908 of title 41, United States Code.”.*

15 **SEC. 6. REQUIREMENTS FOR INSERTION INCENTIVES.**

16 *Section 9(y)(5) of the Small Business Act (15 U.S.C.*
17 *638(y)(5)) is amended by striking “is authorized to” and*
18 *inserting “shall”.*

19 **SEC. 7. CLARIFICATION OF ELIGIBILITY OF CERTAIN SMALL**
20 **BUSINESSES.**

21 “(a) *SBIR.—Section 9(j) of the Small Business Act (15*
22 *U.S.C. 638(j)) is amended by adding at the end the fol-*
23 *lowing new paragraph:*

24 “(4) *MODIFICATION TO CLARIFY ELIGIBILITY OF*
25 *CERTAIN SMALL BUSINESSES.—Not later than 180*

1 *days after the date of the enactment of the Commer-*
2 *cializing on Small Business Innovation Act of 2016,*
3 *the Administrator shall modify the policy directives*
4 *issued pursuant to this subsection to clarify that the*
5 *small business concerns described in subparagraphs*
6 *(B), (C), and (D) of section 3(p)(3) are eligible to re-*
7 *ceive awards under the SBIR program.”.*

8 **(b) STTR.**—*Section 9(p) of the Small Business Act*
9 *(15 U.S.C. 638(p)) is amended by adding at the end the*
10 *following new paragraph:*

11 “(4) *MODIFICATION TO CLARIFY ELIGIBILITY OF*
12 *CERTAIN SMALL BUSINESSES.—Not later than 180*
13 *days after the date of the enactment of the Commer-*
14 *cializing on Small Business Innovation Act of 2016,*
15 *the Administrator shall modify the policy directives*
16 *issued pursuant to this subsection to clarify that the*
17 *small business concerns described in subparagraphs*
18 *(B), (C), and (D) of section 3(p)(3) are eligible to re-*
19 *ceive awards under the STTR program.”.*

20 **SEC. 8. COMMERCIALIZATION ASSISTANCE PILOT PRO-**
21 **GRAM.**

22 *Section 9 of the Small Business Act (15 U.S.C. 638),*
23 *as amended by section 5, is further amended by adding at*
24 *the end the following new subsection:*

1 “(uu) *COMMERCIALIZATION ASSISTANCE PILOT PRO-*
2 *GRAMS.—*

3 “(1) *PILOT PROGRAMS IMPLEMENTED.—*

4 “(A) *IN GENERAL.—Except as provided in*
5 *subparagraph (B), not later than one year after*
6 *the date of the enactment of Commercializing on*
7 *Small Business Innovation Act of 2016, a cov-*
8 *ered agency shall implement a commercialization*
9 *assistance pilot program to award eligible enti-*
10 *ties with a second sequential SBIR award.*

11 “(B) *EXCEPTION.—If the Administrator de-*
12 *termines that a covered agency has a program*
13 *that is sufficiently similar to a commercializa-*
14 *tion assistance pilot program, such agency shall*
15 *not be required to implement a commercializa-*
16 *tion assistance pilot program under subpara-*
17 *graph (A).*

18 “(C) *PERCENT OF AGENCY FUNDS.—A cov-*
19 *ered agency may not use more than 5 percent of*
20 *its total SBIR budget for awards under the com-*
21 *mercialization assistance pilot program.*

22 “(D) *TERMINATION.—The commercializa-*
23 *tion assistance pilot programs shall terminate on*
24 *September 30, 2022.*

25 “(2) *MATCHING REQUIREMENT.—*

1 “(A) *IN GENERAL.*—*The Administrator*
2 *shall require as a condition of any award made*
3 *to an eligible entity under a commercialization*
4 *assistance pilot program, that a matching*
5 *amount (excluding any fees collected from recipi-*
6 *ents of such assistance) equal to the amount of*
7 *such award be provided from an eligible third-*
8 *party investor, before the end of the commer-*
9 *cialization assistance pilot program award.*

10 “(B) *INELIGIBLE FUNDING.*—*An eligible en-*
11 *tity may not use funding from ineligible sources*
12 *to meet the matching requirement of subpara-*
13 *graph (A).*

14 “(3) *AWARD.*—

15 “(A) *SIZE OF AWARD.*—*An award under*
16 *this subsection may not exceed the limitations in*
17 *subsection (aa)(1).*

18 “(B) *TIMING.*—*Awards provided under the*
19 *commercialization assistance pilot program shall*
20 *be distributed during the Phase II award period*
21 *of the recipient eligible entity.*

22 “(4) *APPLICATION.*—*In order to be selected to re-*
23 *ceive a second sequential SBIR award under a com-*
24 *mmercialization assistance pilot program, an eligible*

1 *entity shall submit to the covered agency imple-*
2 *menting such pilot program—*

3 *“(A) an application at such time, in such*
4 *manner, and containing such information as the*
5 *covered agency may require; and*

6 *“(B) the source and amount of the matching*
7 *funding required under paragraph (2).*

8 *“(5) USE OF FUNDS.—The funds awarded under*
9 *a commercialization assistance pilot program may*
10 *only be used for research and development activities*
11 *that build on the eligible entity’s Phase II program*
12 *and catalyze acceleration towards commercialization.*

13 *“(6) DETERMINATION OF RECIPIENTS.—In deter-*
14 *mining which applicants receive awards under the*
15 *commercialization assistance pilot program, the head*
16 *of a covered agency shall consider—*

17 *“(A) the extent to which the supplemental*
18 *funds awarded under the pilot program could*
19 *aid the applicant commercialize its research;*

20 *“(B) whether the proposed plan provides a*
21 *sound approach for establishing technical feasi-*
22 *bility that could lead to commercialization;*

23 *“(C) whether the proposed activity reflect*
24 *changes to the Phase II commercialization plan*

1 *that further improves the chances of conversion*
2 *of research in order to provide societal benefits;*

3 “(D) *whether the small business concern has*
4 *progressed satisfactorily in the Phase II activity*
5 *to justify additional funding;*

6 “(E) *the expectations of the third-party*
7 *funding; and*

8 “(F) *the likelihood that the third-party*
9 *funded activity will lead to commercial and soci-*
10 *etal benefit.*

11 “(7) *EVALUATION REPORT.—Not later than 3*
12 *years after the date of the enactment of Commer-*
13 *cializing on Small Business Innovation Act of 2016,*
14 *the Comptroller General of the United States shall*
15 *submit to the Committee on Science, Space, and Tech-*
16 *nology and the Committee on Small Business of the*
17 *House of Representatives and the Committee on*
18 *Small Business and Entrepreneurship of the Senate*
19 *an evaluative report that includes—*

20 “(A) *a summary of the activities of the*
21 *commercialization assistance pilot programs;*

22 “(B) *a detailed compilation of results*
23 *achieved by the commercialization assistance*
24 *pilot programs, including the number of small*

1 *business concerns that received awards under the*
2 *pilot program;*

3 “(C) *the rate at which the recipients under*
4 *the pilot program commercialized their research;*

5 “(D) *the growth in employment and rev-*
6 *enue of companies that participated in the pilot*
7 *program;*

8 “(E) *a comparison of commercialization*
9 *success of pilot program participants and recipi-*
10 *ents of a non-matching sequential Phase II*
11 *award;*

12 “(F) *demographic information such as eth-*
13 *nicity and geographic location of participant*
14 *companies;*

15 “(G) *an accounting of the funds used at*
16 *each participating agency in the pilot program;*

17 “(H) *a distribution of third-party funding*
18 *by source;*

19 “(I) *an analysis of the program’s effective-*
20 *ness at each participating agency; and*

21 “(J) *recommendations for improvement to*
22 *the pilot program, in the case that Congress were*
23 *to make it permanent.*

24 “(8) *DEFINITIONS.—For purposes of this sub-*
25 *section:*

1 “(A) *COVERED AGENCY*.—The term ‘covered
2 agency’ means a Federal agency required to have
3 an SBIR program.

4 “(B) *ELIGIBLE ENTITY*.—The term ‘eligible
5 entity’ means a small business concern that has
6 received a Phase II award and a Phase II se-
7 quential award from the covered agency to which
8 such entity is applying for a second sequential
9 SBIR award.

10 “(C) *ELIGIBLE THIRD-PARTY INVESTOR*.—
11 The term ‘eligible third-party investors’ means a
12 small business concern other than the eligible en-
13 tity, a venture capital firm, an individual inves-
14 tor, a non-SBIR Federal, State or local govern-
15 ment, or any combination thereof.

16 “(D) *INELIGIBLE SOURCES*.—The term ‘in-
17 eligible sources’ means the following:

18 “(i) The awardee’s internal research
19 and development funds.

20 “(ii) Funding in forms other than cash
21 such as in-kind or other intangible assets.

22 “(iii) Funding from the owners of the
23 eligible entity, or the family members or af-
24 filiates of such owners.

1 “(iv) *Funding attained through loans*
2 *or other forms of debt obligations.*”.

3 **SEC. 9. INCREASED UNDERSERVED POPULATION PARTICI-**
4 **PATION WAIVER REMOVED.**

5 (a) *IN GENERAL.*—Section 9(mm)(2) of the Small
6 *Business Act (15 U.S.C. 638(mm)(2)) is amended to read*
7 *as follows:*

8 “(2) *OUTREACH AND TECHNICAL ASSISTANCE.*—
9 *A Federal agency participating in the program under*
10 *this subsection shall use a portion of the funds au-*
11 *thorized for uses under paragraph (1) to carry out the*
12 *policy directive required under subsection (j)(2)(F)*
13 *and to increase the participation of States with re-*
14 *spect to which a low level of SBIR awards have his-*
15 *torically been awarded.*”.

16 (b) *CONFORMING AMENDMENT.*—Section 9(mm)(6) of
17 *the Small Business Act (15 U.S.C. 638(mm)(6)) is amended*
18 *by striking “(A) and any use of the waiver authority under*
19 *paragraph (2)(B)”.*

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