

## **SABIR Act (Introduced in House)**

109th CONGRESS  
1st Session  
**H. R. 2943**

To amend the Small Business Act to establish eligibility requirements for business concerns to receive awards under the Small Business Innovation Research Program.

### **IN THE HOUSE OF REPRESENTATIVES**

**June 16, 2005**

Mr. GRAVES (for himself, Mr. HONDA, Mr. INSLEE, and Mr. BAIRD) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Science, 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 amend the Small Business Act to establish eligibility requirements for business concerns to receive awards under the Small Business Innovation Research Program.

*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 'Save Biotechnology Innovative Research Act of 2005' or 'SABIR Act'.

#### **SEC. 2. ELIGIBILITY FOR PARTICIPATION IN SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**

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

`(x) Eligibility for Participation in SBIR Program-

`(1) IN GENERAL- To be eligible to receive an award under the SBIR program, a business concern--

`(A) shall have not more than 500 employees; and

`(B) shall be owned in accordance with one of the ownership requirements described in paragraph (2).

` (2) OWNERSHIP REQUIREMENTS- The ownership requirements referred to in paragraph (1) are the following:

` (A) The business concern is--

` (i) at least 51 percent owned and controlled by individuals or eligible venture capital companies, who are citizens of or permanent resident aliens in the United States; and

` (ii) not more than 49 percent owned and controlled by a single eligible venture capital company (or group of commonly-controlled eligible venture capital companies).

` (B) The business concern is at least 51 percent owned and controlled by another business concern that is itself at least 51 percent owned and controlled by individuals who are citizens of or permanent resident aliens in the United States.

` (C) The business concern is a joint venture in which each entity to the joint venture meets one of the ownership requirements under this paragraph.

` (3) EMPLOYEE DEFINED- For purposes of paragraph (1)(A), the term `employee' means an individual employed by the business concern and does not include--

` (A) an individual employed by an eligible venture capital company providing financing to the business concern; or

` (B) an individual employed by any entity in which the eligible venture capital company is invested other than that business concern.

` (4) TREATMENT OF OTHER FORMS OF OWNERSHIP-

` (A) STOCK OPTION OWNERSHIP- For purposes of this subsection, in the case of a business concern owned in whole or in part by an employee stock option plan, each stock trustee or plan member shall be deemed to be an owner.

` (B) TRUST OWNERSHIP- For purposes of this subsection, in the case of a business concern owned in whole or in part by a trust, each trustee or trust beneficiary shall be deemed to be an owner.

` (5) EXCEPTION FOR START-UP CONCERNS- Notwithstanding paragraphs (1) through (4), any business concern that is a start-up concern shall be eligible to receive funding under the SBIR program.'.

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

` (9) The term `eligible venture capital company' means a business concern--

` (A) that--

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

` (ii) is an entity that--

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

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

` (B) that is not controlled by any business concern that is not a small business concern within the meaning of section 3.

` (10) The term `start-up concern' means a business concern that--

` (A) for at least 2 of the 3 preceding fiscal years has had--

` (i) sales of not more than \$3,000,000; or

` (ii) no positive cash flow from operations; and

` (B) is not formed to acquire any business concern other than a small business concern that meets the requirement under subparagraph (A).'

(c) Regulations- Before the date that is 90 days after the date of the enactment of this Act, the Administrator of the Small Business Administration shall--

(1) in accordance with the exceptions to public rulemaking under section 553(b) (A) and (B) of title 5, United States Code, promulgate regulations to implement the provisions of this Act;

(2) publish in the Federal Register a notification of the changes in eligibility for participation in the Small Business Innovation Research program made by this Act; and

(3) communicate such changes to Federal agencies that award grants under the Small Business Innovation Research program.

(d) Effective Date- The amendments made by this Act shall apply with respect to any business concern that participates in the Small Business Innovation Research program on or after the date of the enactment of this Act.