Revised #5

AMENDMENT TO H.R. 5819, AS REPORTED

OFFERED BY M. Graves

Strike title II of the bill and insert the following:

TITLE II—VENTURE CAPITAL INVESTMENT STANDARDS

SEC. 201. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN THE SBIR PROGRAM.

Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended by striking "and" at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting "; and", and adding at the end the following:

"(10) effective only for the SBIR and STTR programs, notwithstanding any other amendment made by the SBIR/STTR Reauthorization Act, the following shall apply:

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

"(B) In determining whether a small business concern is independently owned and oper-

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

1 constitute a majority of the board of direc-
2 tors of the business concern.
3 "(D) If a venture capital operating com-
4 pany controlled by a business with more than
5 500 employees (in this subparagraph referred
6 to as a 'VCOC under large business control')
7 has an ownership interest in a small business
8 concern that is owned in majority part by ven-
9 ture capital operating companies, the small
10 business concern is eligible to receive an award
11 under the SBIR or STTR program only if—
12 "(i) not more than two VCOCs under
13 large business control have an ownership
14 interest in the small business concern;
15 "(ii) the VCOCs under large business
16 control do not collectively own more than
17 20 percent of the small business concern;
18 and
19 "(iii) the VCOCs under large business
20 control do not collaborate with each other
21 to exercise more control over the small
22 business concern than they could otherwise
23 exercise individually.
24 "(E) The term 'venture capital operating
25 company' means a business concern—

1 "(i) that—

2 "(I) is a Venture Capital Oper-
3 ating Company, as that term is de-
4 fined in regulations promulgated by
5 the Secretary of Labor; or

6 "(II) is an entity that—

7 "(aa) is registered under the
8 Investment Company Act of 1940
9 (15 U.S.C. 80a-51 et seq.); or

10 "(bb) is an investment com-
11 pany, as defined in section
12 3(c)(14) of such Act (15 U.S.C.
13 80a-3(c)(14)), which is not reg-
14 istered under such Act because it
15 is beneficially owned by less than
16 100 persons; and

17 "(ii) that is itself organized or incor-
18 porated and domiciled in the United
19 States, or is controlled by a business con-
20 cern that is incorporated and domiciled in
21 the United States.".

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