

**AMENDMENT TO
RULES COMMITTEE PRINT 118-10
OFFERED BY MR. STEWART OF UTAH**

Add at the end of subtitle D of title VIII the following:

1 **SEC. 8__ . ESTABLISHMENT OF OFFICE OF STRATEGIC**
2 **CAPITAL.**

3 Chapter 4 of title 10, United States Code, is amended
4 by adding at the end the following new section:

5 **“§ 148. Office of Strategic Capital**

6 “(a) ESTABLISHMENT.—There is in the Office of the
7 Secretary of Defense an office to be known as the Office
8 of Strategic Capital (in this section referred to as the ‘Of-
9 fice’).

10 “(b) DIRECTOR.—The Office shall be headed by an
11 Executive Director (in this section referred to as the ‘Di-
12 rector’), who shall be appointed by the Secretary of De-
13 fense from among employees of the Department of De-
14 fense in Senior Executive Service or equivalent positions
15 (as defined in section 3132 of title 5).

16 “(c) DUTIES.—The Office shall—

17 “(1) identify, accelerate, and sustain the estab-
18 lishment, research, development, construction, pro-

1 curement, leasing, consolidation, alteration, improve-
2 ment, or repair of tangible and intangible assets
3 vital to national security;

4 “(2) protect vital tangible and intangible assets
5 from theft, acquisition, and transfer by countries
6 that are adversaries of the United States; and

7 “(3) establish a privately managed dual use
8 commercialization fund.

9 “(d) DUAL USE COMMERCIALIZATION FUND.—The
10 Secretary of Defense, in collaboration with the Secretary
11 of Treasury, shall within 120 days of the date of enact-
12 ment of this section establish a defense-related dual-use
13 commercialization investment fund (‘Fund’) to be overseen
14 by the Department of Defense’s Office of Strategic Cap-
15 ital.

16 “(1) PORTFOLIO FUND APPROACH.—Experi-
17 enced private Fund Managers shall manage a series
18 of investments in a portfolio management approach
19 (‘Program’) to achieve an above-average yield that
20 can withstand effects of individual adverse invest-
21 ment returns.

22 “(2) USES.—All money in the Fund shall be
23 available without fiscal year limitation for use by the
24 Fund Manager to make investments under the Pro-
25 gram and to carry out day-to-day functions for the

1 Program. The Fund Manager shall utilize private
2 capital sources, leveraging financial instruments pro-
3 vided by the Treasury and backed by the full weight
4 of Federal Government. The Program shall be over-
5 seen by the Secretary of the Treasury and in col-
6 laboration with the Secretary of Defense and housed
7 within the Department of Defense.

8 “(3) FUND MANAGER ELIGIBILITY.—Only Fund
9 Managers that currently are and have been consist-
10 ently in the top 5 percent of investment managers
11 in the United States for at least 20 years shall be
12 eligible to become Fund Manager for the Program.

13 “(4) FUND MANAGEMENT FEES AND CARRY.—
14 Fund management fees and carry shall be approved
15 by the Secretary of the Treasury, in collaboration
16 with the Secretary of Defense, in accordance with
17 investment industry best practices.

18 “(5) EQUITY AT RISK.—Equity at risk, not less
19 than 20 percent of the total Fund amount, shall be
20 subordinate to the senior debt made under the Pro-
21 gram. Equity principal shall not be guaranteed by
22 the Federal Government. No disbursements shall be
23 made to the Fund Manager, other than Fund man-
24 agement fees, until the senior debt principal and in-
25 terest are paid.

1 “(e) APPLICATIONS.—An eligible entity seeking dual-
2 use commercialization investment funds shall submit to
3 the Director, or the Fund Manager, an application at such
4 time, in such manner, and containing such information as
5 the Fund Manager may require.

6 “(f) SELECTION OF INVESTMENTS.—The Fund Man-
7 ager and the Director shall jointly establish criteria for
8 selecting eligible investments for which applications are
9 submitted under subsection (d). Such criteria shall in-
10 clude—

11 “(1) the extent to which an investment is sig-
12 nificant to the national security of the United
13 States;

14 “(2) the industry sectors that have dual-use
15 characteristics including innovative advanced mate-
16 rials and composites, battery and energy systems,
17 attritable aircraft, artificial intelligence-based sys-
18 tems, domestic extraction of critical materials, and
19 associated commercial manufacturing capabilities;

20 “(3) the company’s United States citizenship,
21 ownership, supply base, and customers served;

22 “(4) the likelihood that funds provided for a
23 dual-use commercialization investment would enable
24 the investment to proceed sooner than the invest-
25 ment would otherwise be able to proceed; and

1 “(5) in the view only of the Fund Manager, the
2 investment, when properly capitalized, would show
3 promise of a significant return on investment, and
4 the highest potential to in the aggregate achieve an
5 above-average yield for the fund.

6 “(g) ELIGIBLE INVESTORS.—

7 “(1) IN GENERAL.—The Secretary of Treasury,
8 in collaboration with the Secretary of Defense, shall,
9 in accordance with this subsection, approve individ-
10 uals or entities who may contribute amounts to the
11 Fund for investment in eligible businesses under the
12 Program.

13 “(2) APPLICATION.—Any individual or entity
14 seeking to contribute amounts to the Fund for in-
15 vestment in eligible businesses under the Program
16 shall submit to the Secretary of Treasury an appli-
17 cation at such time, in such manner, and containing
18 such information as the Secretary determines appro-
19 priate.

20 “(h) PROTECTION OF THE TAXPAYER.—

21 “(1) FEES AND MEASURES.—The Secretary of
22 Defense may require the Fund Manager to pay such
23 administrative fees if feasible, as determined by the
24 Secretary, and agree to performance measures that

1 the Secretary considers necessary and in the best in-
2 terest of implementing the program.

3 “(2) INVESTMENT-GRADE RATING.—The Fed-
4 eral loan guarantees under the Program will achieve
5 and be subject to investment-grade ratings provided
6 to the Secretary of the Treasury by a preliminary
7 rating opinion letter from at least one rating agency
8 indicating the senior obligations of each loan guar-
9 antee have the potential to achieve investment-grade
10 rating.

11 “(3) COMPLIANCE WITH REGULATIONS.—The
12 Secretary of the Treasury, in collaboration with the
13 Secretary of Defense, shall promulgate regulations
14 and policies to carry out this section in accordance
15 with Office of Management and Budget Circular No.
16 A-129, entitled ‘Policies for Federal Credit Pro-
17 grams and Non-Tax Receivables’, or any successor
18 document, and other guidelines for Federal credit
19 access.

20 “(4) APPLICABILITY OF FEDERAL CREDIT RE-
21 FORM ACT OF 1990.—Loan guarantees provided
22 under subparagraph (d) shall be subject to the re-
23 quirements of the Federal Credit Reform Act of
24 1990 (2 U.S.C. 661 et seq.).

1 “(5) FINANCIAL INSTRUMENT PROGRAM OVER-
2 SIGHT.—The financial instrument shall be adminis-
3 tered by the Secretary of the Treasury, with advice
4 and council provided by a designated agent selected
5 by the Secretary of Defense, in collaboration with
6 the Secretary of the Treasury. The program will be
7 placed within the Department of Defense Office of
8 Strategic Capital.

9 “(A) QUARTERLY MEETINGS.—The Fund
10 Manager shall meet each quarter of the fiscal
11 year with the Secretary to discuss the Fund’s
12 activities in the prior quarter and the Fund’s
13 projected activities for the next quarter.

14 “(B) ANNUAL REPORT.—Not later than
15 December 31 of each year, the Secretary shall
16 submit to the congressional defense committees
17 an annual report describing the activities of the
18 Department of Defense Office of Strategic Cap-
19 ital and the Fund in the prior fiscal year and
20 the goals of the Office and the Fund for the
21 current fiscal year.

22 “(6) GAINS AND LOSSES.—Profits shall remain
23 in the Fund until the senior loans have been repaid.
24 Losses shall be offset by the profitable businesses in
25 the Fund.

1 “(i) SUNSET.—The authority to provide Federal loan
2 guarantees under this Program shall terminate 5 years
3 after the date of the establishment of the Program.

4 “(j) DEFINITIONS.—In this section:

5 “(1) COVERED DUAL-USE PRODUCT OR SERV-
6 ICE.—The term ‘covered dual-use product or service’
7 means a dual-use product or service that is—

8 “(A) deemed by the Department of De-
9 fense critically to be within the national defense
10 interest and critical to national security;

11 “(B) ultimately to deliver into the hands of
12 the warfighter and deemed to be critical to na-
13 tional security and used by warfighters; and

14 “(C) the military application of which has
15 been experimentally validated according to De-
16 partment of Defense Technology Readiness
17 Level 4 or higher: analytical and experimental
18 critical function and/or characteristic proof of
19 concept.

20 “(2) DUAL-USE.—The term ‘dual-use’ has the
21 meaning given such term in section 4801 of this
22 title.

23 “(3) ELIGIBLE BUSINESS.—The term ‘eligible
24 business’ means a small or mid-sized business (as
25 defined under section 3(a) of the Small Business Act

1 (15 U.S.C. 632(a)) that produces or supplies tech-
2 nologies necessary to the national security of the
3 United States and having a covered dual-use product
4 or service. This means to have products and services
5 which—

6 “(A) have commercial and military applica-
7 tion;

8 “(B) require long-term investments to
9 reach full commercialization of, with respect to,
10 or become a program of record supplying cov-
11 ered dual-use products or services; and

12 “(C) is unable to reasonably obtain fund-
13 ing elsewhere to meet such requirements.

14 “(4) ELIGIBLE INVESTOR.—The term ‘eligible
15 investor’ means an individual or entity selected
16 under subsection (f) to contribute amounts to the
17 Fund for investment in eligible businesses under the
18 Program.

19 “(5) FUND MANAGER.—The term ‘Fund Man-
20 ager’ means the individual designated under sub-
21 section (d).

22 “(6) INVESTMENT-GRADE RATING.—The term
23 ‘investment-grade rating’ means a debt rating of
24 BBB minus, Baa3, bbb minus, BBB (low), or high-

1 er as-signed by a rating agency to a Federal loan
2 guarantee made under the Program.

3 “(7) **RATING AGENCY.**—The term ‘rating agen-
4 cy’ means a credit rating agency registered with the
5 Securities and Exchange Commission as a nationally
6 recognized statistical rating organization (as defined
7 in section 3(a) of the Securities Exchange Act of
8 1934 (15 U.S.C. 78c(a))).

9 “(9) **PROGRAM.**—The term ‘Program’ means
10 the program required under subsection (d).”.

“(k) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of carrying out
section (d), there is authorized to be appropriated up to \$12,000,000 for fiscal
year 2024.