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 CAPITAL.
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3 Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:
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5 “§ 148. Office of Strategic Capital
6 "(a) Establishment.—There is in the Office of the Secretary of Defense an office to be known as the Office of Strategic Capital (in this section referred to as the ‘Office’).
7 "(b) Director.—The Office shall be headed by an Executive Director (in this section referred to as the ‘Director’), who shall be appointed by the Secretary of Defense from among employees of the Department of Defense in Senior Executive Service or equivalent positions (as defined in section 3132 of title 5).
8 "(c) Duties.—The Office shall—
9 "(1) identify, accelerate, and sustain the establishment, research, development, construction, pro-
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eurement, leasing, consolidation, alteration, improve-
ment, or repair of tangible and intangible assets
vital to national security;
“(2) protect vital tangible and intangible assets
from theft, acquisition, and transfer by countries
that are adversaries of the United States; and
“(3) establish a privately managed dual use
commercialization fund.
“(d) DUAL USE COMMERCIALIZATION FUND.—The
Secretary of Defense, in collaboration with the Secretary
of Treasury, shall within 120 days of the date of enaet-
ment of this section establish a defense-related dual-use
commercialization investment fund (‘Fund’) to be overseen
by the Department of Defense’s Office of Strategic Cap-
it.
“(1) PORTFOLIO FUND APPROACH.—Experi-
enced private Fund Managers shall manage a series
of investments in a portfolio management approach
(‘Program’) to achieve an above-average yield that
can withstand effects of individual adverse invest-
ment returns.
“(2) USES.—All money in the Fund shall be
available without fiscal year limitation for use by the
Fund Manager to make investments under the Pro-
gram and to carry out day-to-day functions for the
Program. The Fund Manager shall utilize private capital sources, leveraging financial instruments provided by the Treasury and backed by the full weight of Federal Government. The Program shall be overseen by the Secretary of the Treasury and in collaboration with the Secretary of Defense and housed within the Department of Defense.

"(3) FUND MANAGER ELIGIBILITY.—Only Fund Managers that currently are and have been consistently in the top 5 percent of investment managers in the United States for at least 20 years shall be eligible to become Fund Manager for the Program.

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

"(5) EQUITY AT RISK.—Equity at risk, not less than 20 percent of the total Fund amount, shall be subordinate to the senior debt made under the Program. Equity principal shall not be guaranteed by the Federal Government. No disbursements shall be made to the Fund Manager, other than Fund management fees, until the senior debt principal and interest are paid.
"(e) APPLICATIONS.—An eligible entity seeking dual-use commercialization investment funds shall submit to the Director, or the Fund Manager, an application at such time, in such manner, and containing such information as the Fund Manager may require.

"(f) SELECTION OF INVESTMENTS.—The Fund Manager and the Director shall jointly establish criteria for selecting eligible investments for which applications are submitted under subsection (d). Such criteria shall include—

"(1) the extent to which an investment is significant to the national security of the United States;

"(2) the industry sectors that have dual-use characteristics including innovative advanced materials and composites, battery and energy systems, attritable aircraft, artificial intelligence-based systems, domestic extraction of critical materials, and associated commercial manufacturing capabilities;

"(3) the company's United States citizenship, ownership, supply base, and customers served;

"(4) the likelihood that funds provided for a dual-use commercialization investment would enable the investment to proceed sooner than the investment would otherwise be able to proceed; and
“(5) in the view only of the Fund Manager, the investment, when properly capitalized, would show promise of a significant return on investment, and the highest potential to in the aggregate achieve an above-average yield for the fund.

“(g) ELIGIBLE INVESTORS.—

“(1) IN GENERAL.—The Secretary of Treasury, in collaboration with the Secretary of Defense, shall, in accordance with this subsection, approve individuals or entities who may contribute amounts to the Fund for investment in eligible businesses under the Program.

“(2) APPLICATION.—Any individual or entity seeking to contribute amounts to the Fund for investment in eligible businesses under the Program shall submit to the Secretary of Treasury an application at such time, in such manner, and containing such information as the Secretary determines appropriate.

“(h) PROTECTION OF THE TAXPAYER.—

“(1) FEES AND MEASURES.—The Secretary of Defense may require the Fund Manager to pay such administrative fees if feasible, as determined by the Secretary, and agree to performance measures that
the Secretary considers necessary and in the best interest of implementing the program.

"(2) INVESTMENT-GRADE RATING.—The Federal loan guarantees under the Program will achieve and be subject to investment-grade ratings provided to the Secretary of the Treasury by a preliminary rating opinion letter from at least one rating agency indicating the senior obligations of each loan guarantee have the potential to achieve investment-grade rating.

"(3) COMPLIANCE WITH REGULATIONS.—The Secretary of the Treasury, in collaboration with the Secretary of Defense, shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled ‘Policies for Federal Credit Programs and Non-Tax Receivables’, or any successor document, and other guidelines for Federal credit access.

"(4) APPLICABILITY OF FEDERAL CREDIT REFORM ACT OF 1990.—Loan guarantees provided under subparagraph (d) shall be subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).
"(5) Financial instrument program oversight.—The financial instrument shall be administered by the Secretary of the Treasury, with advice and council provided by a designated agent selected by the Secretary of Defense, in collaboration with the Secretary of the Treasury. The program will be placed within the Department of Defense Office of Strategic Capital.

"(A) Quarterly meetings.—The Fund Manager shall meet each quarter of the fiscal year with the Secretary to discuss the Fund’s activities in the prior quarter and the Fund’s projected activities for the next quarter.

"(B) Annual report.—Not later than December 31 of each year, the Secretary shall submit to the congressional defense committees an annual report describing the activities of the Department of Defense Office of Strategic Capital and the Fund in the prior fiscal year and the goals of the Office and the Fund for the current fiscal year.

"(6) Gains and losses.—Profits shall remain in the Fund until the senior loans have been repaid. Losses shall be offset by the profitable businesses in the Fund."
“(i) SUNSET.—The authority to provide Federal loan guarantees under this Program shall terminate 5 years after the date of the establishment of the Program.

“(j) DEFINITIONS.—In this section:

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

“(A) deemed by the Department of Defense critically to be within the national defense interest and critical to national security;

“(B) ultimately to deliver into the hands of the warfighter and deemed to be critical to national security and used by warfighters; and

“(C) the military application of which has been experimentally validated according to Department of Defense Technology Readiness Level 4 or higher: analytical and experimental critical function and/or characteristic proof of concept.

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

“(3) ELIGIBLE BUSINESS.—The term ‘eligible business’ means a small or mid-sized business (as defined under section 3(a) of the Small Business Act
(15 U.S.C. 632(a))) that produces or supplies technologies necessary to the national security of the United States and having a covered dual-use product or service. This means to have products and services which—

"(A) have commercial and military application;

"(B) require long-term investments to reach full commercialization of, with respect to, or become a program of record supplying covered dual-use products or services; and

"(C) is unable to reasonably obtain funding elsewhere to meet such requirements.

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

"(5) FUND MANAGER.—The term ‘Fund Manager’ means the individual designated under subsection (d).

"(6) INVESTMENT-RATE RATING.—The term ‘investment-grade rating’ means a debt rating of BBB minus, Baa3, bbb minus, BBB (low), or high-
er as-signed by a rating agency to a Federal loan
guarantee made under the Program.

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

“(9) PROGRAM.—The term ‘Program’ means
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.