

118TH CONGRESS
1ST SESSION

S. 1463

To establish a defense industrial base advanced capabilities pilot program.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2023

Ms. ROSEN (for herself and Mrs. BLACKBURN) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To establish a defense industrial base advanced capabilities
pilot program.

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. DEFENSE INDUSTRIAL BASE ADVANCED CAPA-**
4 **BILITIES PILOT PROGRAM.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—The Under Secretary of De-
7 fense for Acquisition and Sustainment shall carry
8 out a public-private partnership pilot program to ac-
9 celerate the scaling, production, and acquisition of
10 advanced capabilities for national security by cre-
11 ating incentives for investment in domestic small

1 businesses or nontraditional businesses to create a
2 robust and resilient defense industrial base.

3 (2) GOALS.—The goals of the public-private
4 partnership pilot program are as follows:

5 (A) To bolster the defense industrial base
6 through acquisition and deployment of ad-
7 vanced capabilities necessary to field Depart-
8 ment of Defense modernization programs and
9 priorities.

10 (B) To strengthen domestic defense supply
11 chain resilience and capacity by investing in in-
12 novative defense companies.

13 (C) To leverage private equity capital to
14 accelerate domestic defense scaling, production,
15 and manufacturing.

16 (b) PUBLIC-PRIVATE PARTNERSHIPS.—

17 (1) IN GENERAL.—In carrying out subsection
18 (a), the Under Secretary shall enter into public-pri-
19 vate partnerships, consistent with the phased imple-
20 mentation provided for in subsection (e), with for-
21 profit persons using the criteria set forth in para-
22 graph (2).

23 (2) CRITERIA.—The criteria referred to in
24 paragraph (1) shall include the following:

25 (A) The person shall be independent.

1 (B) The person shall be free from foreign
2 oversight, control, influence, or beneficial own-
3 ership.

4 (C) The person shall have commercial pri-
5 vate equity fund experience in the defense and
6 commercial sectors.

7 (D) The person shall be eligible for access
8 to classified information (as defined in the pro-
9 cedures established pursuant to section 801(a)
10 of the National Security Act of 1947 (50
11 U.S.C. 3161(a))).

12 (3) OPERATING AGREEMENT.—The Under Sec-
13 retary and a person or persons with whom the
14 Under Secretary enters a partnership under para-
15 graph (1) shall enter into an operating agreement
16 that sets forth the roles, responsibilities, authorities,
17 reporting requirements, and governance framework
18 for the partnership and its operations.

19 (c) INVESTMENT OF EQUITY.—

20 (1) IN GENERAL.—Pursuant to public-private
21 partnerships entered into under subsection (b), a
22 person or persons with whom the Under Secretary
23 has entered into a partnership shall invest equity in
24 domestic small businesses or nontraditional busi-
25 nesses consistent with subsection (a), with invest-

1 ments selected based on technical merit, economic
2 value, and the Department's modernization prior-
3 ities.

4 (2) AUTHORITIES.—A person or persons de-
5 scribed in paragraph (1) shall have sole authority to
6 operate, manage, and invest.

7 (d) LOAN GUARANTEE.—

8 (1) IN GENERAL.—The Under Secretary shall
9 provide an up to 80 percent loan guarantee, pursu-
10 ant to the public-private partnerships entered into
11 under subsection (b), with investment of equity that
12 qualifies under subsection (c) and consistent with
13 the goals set forth under subsection (a)(2).

14 (2) PILOT PROGRAM AUTHORITY.—The tem-
15 porary loan guarantee authority described under
16 paragraph (1) is exclusively for the public-private
17 partnerships authorized under this section and may
18 not be utilized for other programs or purposes.

19 (3) SUBJECT TO OPERATING AGREEMENT.—
20 The loan guarantee under paragraph (1) shall be
21 subject to the operating agreement entered into
22 under subsection (b)(3).

23 (4) USE OF FUNDS.—Obligations incurred by
24 the Under Secretary under this paragraph shall be
25 subject to the availability of funds provided in ad-

1 vance specifically for the purpose of such loan guar-
2 antees.

3 (e) PHASED IMPLEMENTATION SCHEDULE AND RE-
4 QUIRED REPORTS AND BRIEFINGS.—The program estab-
5 lished under subsection (a) shall be carried out in two
6 phases as follows:

7 (1) PHASE 1.—

8 (A) IN GENERAL.—Phase 1 shall consist of
9 an initial pilot program with one public-private
10 partnership, consistent with subsection (b), to
11 assess the feasibility and advisability of expand-
12 ing the scope of the program. The Under Sec-
13 retary shall begin implementation of phase 1
14 not later than 180 days after the date of the
15 enactment of this Act.

16 (B) IMPLEMENTATION SCHEDULE AND
17 FRAMEWORK.—Not later than 90 days after the
18 date of the enactment of this Act, the Secretary
19 shall submit an implementation plan to the con-
20 gressional defense committees on the design of
21 phase 1. The plan shall include—

22 (i) an overview of, and the activities
23 undertaken, to execute the public-private
24 partnership;

1 (ii) a description of the advanced ca-
2 pabilities and defense industrial base areas
3 under consideration for investment; and

4 (iii) implementation milestones and
5 metrics.

6 (C) REPORT AND BRIEFING REQUIRED.—

7 Not later than 27 months after the date of the
8 enactment of this Act, the Secretary shall pro-
9 vide to the congressional defense committees a
10 report and briefing on the implementation of
11 this section and the feasibility and advisability
12 of expanding the scope of the pilot program.
13 The report and briefing shall include, at min-
14 imum—

15 (i) an overview of program perform-
16 ance, and implementation and execution
17 milestones and outcomes;

18 (ii) an overview of progress in—

19 (I) achieving new products in
20 production aligned with Department
21 of Defense needs;

22 (II) scaling businesses aligned to
23 targeted industrial base and capability
24 areas;

1 (III) generating defense indus-
2 trial base job growth;

3 (IV) increasing supply chain re-
4 silience and capacity; and

5 (V) enhancing competition on ad-
6 vanced capability programs; and

7 (iii) an accounting of activities under-
8 taken and outline of the opportunities and
9 benefits of expanding the scope of the pilot
10 program.

11 (2) PHASE 2.—

12 (A) IN GENERAL.—Not later than 30
13 months after the date of the enactment of this
14 Act, the Secretary may expand the scope of the
15 phase 1 pilot program with the ability to in-
16 crease to not more than three public-private
17 partnerships, consistent with subsection (b).

18 (B) REPORT AND BRIEFING REQUIRED.—
19 Not later than five years after the date of the
20 enactment of this Act, the Secretary shall pro-
21 vide to the congressional defense committees a
22 report and briefing on the outcomes of the pilot
23 program under subsection (a), including the ele-
24 ments described in paragraph (1)(C), and the

1 feasibility and advisability of making the pro-
2 gram permanent.

3 (f) TERMINATION.—The authority to enter into an
4 agreement to carry out the pilot program under subsection
5 (a) shall terminate on the date that is five years after the
6 date of the enactment of this Act.

7 (g) DEFINITIONS.—In this section:

8 (1) CONGRESSIONAL DEFENSE COMMITTEES.—
9 The term “congressional defense committees” has
10 the meaning given the term in section 101(a)(16) of
11 title 10, United States Code.

12 (2) DOMESTIC BUSINESS.—The term “domestic
13 business” has the meaning given the term “U.S.
14 business” in section 800.252 of title 31, Code of
15 Federal Regulations, or successor regulation.

16 (3) DOMESTIC SMALL BUSINESSES OR NON-
17 TRADITIONAL BUSINESSES.—The term “domestic
18 small businesses or nontraditional businesses”
19 means—

20 (A) a small business that is a domestic
21 business; or

22 (B) a nontraditional business that is a do-
23 mestic business.

24 (4) FREE FROM FOREIGN OVERSIGHT, CON-
25 TROL, INFLUENCE, OR BENEFICIAL OWNERSHIP.—

1 The term “free from foreign oversight, control, influ-
2 ence, or beneficial ownership”, with respect to a per-
3 son, means a person who has not raised and man-
4 aged capital from a person or entity that is not
5 trusted and who is otherwise free from foreign over-
6 sight, control, influence, or beneficial ownership.

7 (5) INDEPENDENT.—The term “independent”,
8 with respect to a person, means a person who lacks
9 a conflict of interest accomplished by not having en-
10 tity or manager affiliation or ownership with an ex-
11 isting fund.

12 (6) NONTRADITIONAL BUSINESS.—The term
13 “nontraditional business” has the meaning given the
14 term “nontraditional defense contractor” in section
15 3014 of title 10, United States Code.

16 (7) SMALL BUSINESS.—The term “small busi-
17 ness” has the meaning given the term “small busi-
18 ness concern” in section 3 of the Small Business Act
19 (15 U.S.C. 632).

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