

118TH CONGRESS  
1ST SESSION

# H. R. 3147

To establish a defense industrial base advanced capabilities pilot program.

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IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2023

Ms. HOULAHAN (for herself, Mr. FALLON, and Mr. WITTMAN) introduced the following bill; which was referred to the Committee on Armed Services

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## 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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