

118TH CONGRESS
2D SESSION

S. 4496

To expand the authorities of the Office of Strategic Capital of the Department of Defense.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2024

Mr. ROMNEY (for himself and Mrs. SHAHEEN) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To expand the authorities of the Office of Strategic Capital
of the Department of Defense.

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. SHORT TITLE.**

4 This Act may be cited as the “Investing in Our De-
5 fense Act of 2024”.

6 **SEC. 2. AUTHORIZATION TO MAKE EQUITY INVESTMENTS.**

7 (a) IN GENERAL.—Section 149 of title 10, United
8 States Code, is amended—

9 (1) by redesignating subsection (e) as sub-
10 section (f); and

1 (2) by inserting after subsection (d) the fol-
 2 lowing new subsection (e):

3 “(e) EQUITY INVESTMENTS.—

4 “(1) IN GENERAL.—The Office may, as a mi-
 5 nority investor, support eligible investments with
 6 funds or use other mechanisms for the purpose of
 7 purchasing, and may make and fund commitments
 8 to purchase, invest in, make pledges in respect of, or
 9 otherwise acquire, equity or quasi-equity securities
 10 or shares or financial interests of any entity, upon
 11 such terms and conditions as the Director may de-
 12 termine.

13 “(2) LIMITATIONS ON EQUITY INVESTMENTS.—

14 “(A) PER PROJECT LIMIT.—The aggregate
 15 amount of support provided under this sub-
 16 section with respect to any eligible investment
 17 shall not exceed 20 percent of the aggregate
 18 amount of all equity investment made to the
 19 project at the time that the Office approves
 20 support for the eligible investment.

21 “(B) TOTAL LIMIT.—Support provided
 22 under this subsection shall be limited to not
 23 more than 35 percent of the aggregate exposure
 24 of the Office on the date on which the support
 25 is provided.

1 “(3) SALES AND LIQUIDATION OF SUPPORT.—

2 The Office shall seek to sell and liquidate any sup-
 3 port for an eligible investment provided under this
 4 subsection as soon as commercially feasible, com-
 5 mensurate with other similar investors in the project
 6 and taking into consideration the national security
 7 interests of the United States.

8 “(4) TIMETABLE.—The Office shall create an
 9 eligible investment-specific timetable for support pro-
 10 vided under paragraph (1).

11 “(5) BUDGETARY TREATMENT OF EQUITY IN-
 12 VESTMENTS.—Support provided under this sub-
 13 section shall constitute a credit program under the
 14 Federal Credit Reform Act of 1990 (2 U.S.C. 621
 15 et seq.), and the budgetary cost of equity invest-
 16 ments shall accordingly be calculated on a net-
 17 present basis.”.

18 (b) CONFORMING AMENDMENT.—Subsection (f)(1)
 19 of such section, as redesignated by subsection (a), is fur-
 20 ther amended by inserting “, equity investment” after
 21 “loan guarantee”.

22 **SEC. 3. AUTHORIZATION TO INVEST IN CRITICAL MIN-**
 23 **ERALS.**

24 (a) SENSE OF CONGRESS.—It is the sense of Con-
 25 gress that the Office of Strategic Capital should seek to

1 invest in critical minerals in support of the policy de-
 2 scribed in section 1414 of the National Defense Authoriza-
 3 tion Act for Fiscal Year 2024 (Public Law 118–31; 137
 4 Stat. 528; 10 U.S.C. 4811 note).

5 (b) INVESTMENTS IN CRITICAL MINERALS.—Section
 6 149(f)(3) of title 10, United States Code, as amended by
 7 section 2, is further amended by adding at the end the
 8 following new subparagraph:

9 “(FF) Critical minerals.”.

10 **SEC. 4. AUTHORIZATION TO COLLECT FEES FOR PRO-**
 11 **VIDING CAPITAL INVESTMENTS.**

12 Section 149 of title 10, United States Code, as
 13 amended by section 2, is further amended—

14 (1) by redesignating subsection (f) as sub-
 15 section (g); and

16 (2) by inserting after subsection (e) the fol-
 17 lowing new subsection (f):

18 “(f) FEE AUTHORITY.—The Director may charge
 19 and collect fees for providing capital assistance in amounts
 20 to be determined by the Director. Such fees, once col-
 21 lected, may be used only for the purposes and to the extent
 22 provided in advance by appropriations Acts.”.

23 **SEC. 5. HIRING AUTHORITIES.**

24 Section 149 of title 10, United States Code, as
 25 amended by sections 2 and 4, is further amended—

1 (1) by redesignating subsection (g) as sub-
2 section (h); and

3 (2) by inserting after subsection (f) the fol-
4 lowing new subsection (g):

5 “(g) OFFICERS AND EMPLOYEES.—

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided in this section, officers, employees, and agents
8 of the Office shall be selected and appointed by the
9 Director, and shall be vested with such powers and
10 duties as the Director may determine.

11 “(2) ADMINISTRATIVELY DETERMINED EM-
12 PLOYEES.—

13 “(A) APPOINTMENT; COMPENSATION; RE-
14 MOVAL.—Of officers and employees employed
15 by the Office under paragraph (1), not more
16 than 50 may be appointed, compensated, or re-
17 moved without regard to title 5.

18 “(B) REINSTATEMENT.—Under such regu-
19 lations as the Secretary of Defense may pre-
20 scribe, officers and employees appointed to a
21 position under subparagraph (A) may be enti-
22 tled, upon removal from such position (unless
23 the removal was for cause), to reinstatement to
24 the position occupied at the time of appoint-

1 ment or to a position of comparable grade and
2 salary.

3 “(C) ADDITIONAL POSITIONS.—Positions
4 authorized by subparagraph (A) shall be in ad-
5 dition to those otherwise authorized by law, in-
6 cluding positions authorized under section 5108
7 of title 5.

8 “(D) RATES OF PAY FOR OFFICERS AND
9 EMPLOYEES.—The Director may set and adjust
10 rates of basic pay for officers and employees
11 appointed under subparagraph (A) without re-
12 gard to the provisions of chapter 51 or sub-
13 chapter III of chapter 53 of title 5, relating to
14 classification of positions and General Schedule
15 pay rates, respectively.”.

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