

117TH CONGRESS
1ST SESSION

H. R. 2005

To amend chapter 139 of title 10, United States Code, to require the Secretary of each military department to identify promising research programs of the Small Business Innovation Research Program or Small Business Technology Transfer Program for inclusion in the future budgets and plans of the Department of Defense, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2021

Mr. CALVERT (for himself and Mr. CRIST) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend chapter 139 of title 10, United States Code, to require the Secretary of each military department to identify promising research programs of the Small Business Innovation Research Program or Small Business Technology Transfer Program for inclusion in the future budgets and plans of the Department of Defense, and for other purposes.

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 “DOD Entrepreneurial
5 Innovation Act”.

1 **SEC. 2. ENTREPRENEURIAL INNOVATION PROJECT DES-**
2 **IGNATIONS.**

3 (a) IN GENERAL.—

4 (1) DESIGNATING CERTAIN SBIR AND STTR
5 PROGRAMS AS ENTREPRENEURIAL INNOVATION
6 PROJECTS.—Chapter 139 of title 10, United States
7 Code, is amended by inserting after section 2359b
8 the following new section:

9 **“§ 2359c Entrepreneurial Innovation Project designa-**
10 **tions**

11 “(a) IN GENERAL.—During the first fiscal year be-
12 ginning after the date of the enactment of this section,
13 and during each subsequent fiscal year, each Secretary
14 concerned, in consultation with the each chief of an armed
15 force under the jurisdiction of the Secretary concerned,
16 shall designate not less than five eligible programs as En-
17 trepreneurial Innovation Projects.

18 “(b) APPLICATION.—An eligible program seeking
19 designation as an Entrepreneurial Innovation Project
20 under this section shall submit to the Secretary concerned
21 an application at such time, in such manner, and con-
22 taining such information as the Secretary concerned deter-
23 mines appropriate.

24 “(c) DESIGNATION CRITERIA.—In making designa-
25 tions under subsection (a), the Secretary concerned shall
26 consider—

1 “(1) the potential of the eligible program to—

2 “(A) advance the national security capa-
3 bilities of the United States;

4 “(B) provide new technologies or proc-
5 esses, or new applications of existing tech-
6 nologies, that will enable new alternatives to ex-
7 isting programs; and

8 “(C) provide future cost savings;

9 “(2) whether an advisory panel has rec-
10 ommended the eligible program for designation; and

11 “(3) such other criteria that the Secretary con-
12 cerned determines to be appropriate.

13 “(d) DESIGNATION BENEFITS.—

14 “(1) FUTURE YEARS DEFENSE PROGRAM IN-
15 CLUSION.—With respect to each designated pro-
16 gram, the Secretary of Defense shall include in the
17 next future-years defense program the estimated ex-
18 penditures of such designated program. In the pre-
19 ceding sentence, the term ‘next future-years defense
20 program’ means the future-years defense program
21 submitted to Congress under section 221 of this title
22 after the date on which such designated program is
23 designated under subsection (a).

24 “(2) PROGRAMMING PROPOSAL.—Each des-
25 ignated program shall be included by the Secretary

1 concerned under a separate heading in any program-
2 ming proposals submitted to the Secretary of De-
3 fense.

4 “(3) PPBE COMPONENT.—Each designated
5 program shall be considered by the Secretary con-
6 cerned as an integral part of the planning, program-
7 ming, budgeting, and execution process of the De-
8 partment of Defense.

9 “(e) ENTREPRENEURIAL INNOVATION ADVISORY
10 PANELS.—

11 “(1) ESTABLISHMENT.—For each military de-
12 partment, the Secretary concerned shall establish an
13 advisory panel that, starting in the first fiscal year
14 beginning after the date of the enactment of this
15 section, and in each subsequent fiscal year, shall
16 identify and recommend to the Secretary concerned
17 for designation under subsection (a) eligible pro-
18 grams based on the criteria described in subsection
19 (c)(1).

20 “(2) MEMBERSHIP.—

21 “(A) COMPOSITION.—

22 “(i) IN GENERAL.—Each advisory
23 panel shall be composed of four members
24 appointed by the Secretary concerned and
25 one member appointed by the chief of the

1 relevant armed force under the jurisdiction
2 of the Secretary concerned.

3 “(ii) SECRETARY CONCERNED AP-
4 POINTMENTS.—The Secretary concerned
5 shall appoint members to the advisory
6 panel as follows:

7 “(I) Three members who—

8 “(aa) have experience with
9 private sector entrepreneurial in-
10 novation, including development
11 and implementation of such inno-
12 vations into well established mar-
13 kets; and

14 “(bb) are not employed by
15 the Federal Government.

16 “(II) One member who is in the
17 Senior Executive Service in the acqui-
18 sition workforce (as defined in section
19 1705 of this title) of the relevant mili-
20 tary department.

21 “(iii) SERVICE CHIEF APPOINT-
22 MENT.—The chief of an armed force under
23 the jurisdiction of the Secretary concerned
24 shall appoint to the advisory panel one

1 member who is a member of such armed
2 forces.

3 “(B) TERMS.—

4 “(i) PRIVATE SECTOR MEMBERS.—
5 Members described in subparagraph
6 (A)(ii)(I) shall serve for a term of three
7 years, except that of the members first ap-
8 pointed—

9 “(I) one shall serve a term of one
10 year;

11 “(II) one shall serve a term of
12 two years; and

13 “(III) one shall serve a term of
14 three years.

15 “(ii) FEDERAL GOVERNMENT EM-
16 PLOYEES.—Members described in clause
17 (ii)(II) or (iii) of subparagraph (A) shall
18 serve for a term of two years, except that
19 the first member appointed under subpara-
20 graph (A)(iii) shall serve for a term of one
21 year.

22 “(C) CHAIR.—The chair for each advisory
23 panel shall be as follows:

24 “(i) For the first year of operation of
25 each such advisory panel, and every other

1 year thereafter, the member appointed
2 under subparagraph (A)(iii).

3 “(ii) For the second year of operation
4 of each such advisory panel, and every
5 other year thereafter, the member ap-
6 pointed under subparagraph (A)(ii)(II).

7 “(D) VACANCIES.—A vacancy in an advi-
8 sory panel shall be filled in the same manner as
9 the original appointment.

10 “(E) CONFLICT OF INTEREST.—Members
11 and staff of each advisory panel shall disclose
12 to the relevant Secretary concerned, and such
13 Secretary concerned shall mitigate to the extent
14 practicable, any professional or organizational
15 conflict of interest of such members or staff
16 arising from service on the advisory panel.

17 “(F) COMPENSATION.—

18 “(i) PRIVATE SECTOR MEMBER COM-
19 PENSATION.—Except as provided in clause
20 (ii), members of an advisory panel, and the
21 support staff of such members, shall be
22 compensated at a rate determined reason-
23 able by the Secretary concerned and shall
24 be reimbursed in accordance with section
25 5703 of title 5 for reasonable travel costs

1 and expenses incurred in performing duties
2 as members of an advisory panel.

3 “(ii) PROHIBITION ON COMPENSATION
4 OF FEDERAL EMPLOYEES.—Members of an
5 advisory panel who are full-time officers or
6 employees of the United States or Mem-
7 bers of Congress may not receive addi-
8 tional pay, allowances, or benefits by rea-
9 son of their service on an advisory panel.

10 “(3) SELECTION PROCESS.—

11 “(A) INITIAL SELECTION.—Each advisory
12 panel shall select not less than ten eligible pro-
13 grams that have submitted an application under
14 subsection (b).

15 “(B) PROGRAM PLANS.—

16 “(i) IN GENERAL.—Each eligible pro-
17 gram selected under subparagraph (A)
18 may submit to the advisory panel that se-
19 lected such eligible program a program
20 plan containing the five-year goals, execu-
21 tion plans, schedules, and funding needs of
22 such eligible program.

23 “(ii) SUPPORT.—Each Secretary con-
24 cerned shall, to the greatest extent prac-
25 ticable, provide eligible programs selected

1 under subparagraph (A) with access to in-
2 formation to support the development of
3 the program plans described in clause (i).

4 “(C) FINAL SELECTION.—Each advisory
5 panel shall recommend to the Secretary con-
6 cerned for designation under subsection (a) not
7 less than five eligible programs that submitted
8 a program plan under subparagraph (B) to
9 such advisory panel. If there are less than five
10 such eligible programs, such advisory panel may
11 recommend to the Secretary concerned for des-
12 ignation under subsection (a) less than five
13 such eligible programs.

14 “(4) ADMINISTRATIVE AND TECHNICAL SUP-
15 PORT.—The Secretary concerned shall provide the
16 relevant advisory panel with such administrative
17 support, staff, and technical assistance as the Sec-
18 retary concerned determines necessary for such advi-
19 sory panel to carry out its duties.

20 “(5) FUNDING.—The Secretary of Defense may
21 use amounts available from the Department of De-
22 fense Acquisition Workforce Development Account
23 established under section 1705 of this title to sup-
24 port the activities of advisory panels.

1 “(6) INAPPLICABILITY OF FACA.—The Federal
2 Advisory Committee Act (5 U.S.C. App) shall not
3 apply to the advisory panels established under this
4 subsection.

5 “(f) REVOCATION OF DESIGNATION.—If the Sec-
6 retary concerned determines that a designated program
7 cannot reasonably meet the objectives of such designated
8 program in the relevant programming proposal referred
9 to in subsection (d)(2) or such objectives are irrelevant,
10 such Secretary concerned may revoke the designation.

11 “(g) REPORT TO CONGRESS.—The Secretary of De-
12 fense shall submit to Congress an annual report describing
13 each designated program and the progress each designated
14 program has made toward achieving the objectives of the
15 designated program.

16 “(h) DEFINITIONS.—In this section:

17 “(1) ADVISORY PANEL.—The term ‘advisory
18 panel’ means an advisory panel established under
19 subsection (e)(1).

20 “(2) DESIGNATED PROGRAM.—The term ‘des-
21 ignated program’ means an eligible program that
22 has been designated as an Entrepreneurial Innova-
23 tion Project under this section.

24 “(3) ELIGIBLE PROGRAM.—The term ‘eligible
25 program’ means work performed pursuant to a

1 Phase III agreement (as such term is defined in sec-
2 tion 9(r)(2) of the Small Business Act (15 U.S.C.
3 638(r)(2))).”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
5 tions at the beginning of chapter 139 of title 10,
6 United States Code, is amended by inserting after
7 the item related to section 2359b the following new
8 item:

“2359c. Entrepreneurial Innovation Project designations.”.

9 (b) ESTABLISHMENT DEADLINE.—Not later than
10 120 days after the date of the enactment of this Act, the
11 Secretaries of each military department shall establish the
12 advisory panels described in section 2359c(e) of title 10,
13 United States Code, as added by subsection (a).

14 (c) FUTURE TRANSFER.—

15 (1) TRANSFER AND REDESIGNATION.—Section
16 2359c of title 10, United States Code, as added by
17 subsection (a), is transferred to chapter 303 of such
18 title, added after section 4066, as transferred and
19 redesignated by section 1842(b) of the William M.
20 (Mac) Thornberry National Defense Authorization
21 Act for Fiscal Year 2021 (Public Law 116–283),
22 and redesignated as section 4067.

23 (2) CLERICAL AMENDMENTS.—

24 (A) TARGET CHAPTER TABLE OF SEC-
25 TIONS.—The table of sections at the beginning

1 of chapter 303 of title 10, United States Code,
2 as added by section 1842(a) of the William M.
3 (Mac) Thornberry National Defense Authoriza-
4 tion Act for Fiscal Year 2021 (Public Law
5 116–283), is amended by inserting after the
6 item related to section 4066 the following new
7 item:

“4067. Entrepreneurial Innovation Project designations.”.

8 (B) ORIGIN CHAPTER TABLE OF SEC-
9 TIONS.—The table of sections at the beginning
10 of chapter 139 of title 10, United States Code,
11 is amended by striking the item relating to sec-
12 tion 2359c.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect on January 1,
15 2022.

16 (4) REFERENCES; SAVING PROVISION; RULE OF
17 CONSTRUCTION.—Sections 1883 through 1885 of
18 the William M. (Mac) Thornberry National Defense
19 Authorization Act for Fiscal Year 2021 (Public Law
20 116–283) shall apply with respect to the amend-
21 ments made under this subsection as if such amend-
22 ments were made under title XVIII of such Act.

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