

118TH CONGRESS
1ST SESSION

S. 1956

To improve the commercialization of Federal research by domestic manufacturers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2023

Ms. BALDWIN (for herself and Mr. VANCE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve the commercialization of Federal research by domestic manufacturers, 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 “Invent Here, Make
5 Here Act of 2023”.

1 **SEC. 2. IMPROVEMENT OF COMMERCIALIZATION OF FED-**
2 **ERAL RESEARCH BY DOMESTIC MANUFAC-**
3 **TURERS.**

4 Section 2 of the National Institute of Standards and
5 Technology Act (15 U.S.C. 272) is amended by adding
6 at the end the following:

7 “(f) COMMERCIALIZATION OF FEDERAL RESEARCH
8 BY DOMESTIC MANUFACTURERS.—In order for the Insti-
9 tute to meet the need described in section 1(a)(1) and
10 most effectively carry out the activities under subsection
11 (c)(1) of this section, the Director shall—

12 “(1) coordinate with the Manufacturing USA
13 Network established under section 34(c)(1) to iden-
14 tify domestic manufacturers that can develop com-
15 mercial products based on research conducted by
16 Federal agencies;

17 “(2) work with the Administrator of the Small
18 Business Administration to identify domestic inves-
19 tors to support the development of commercial prod-
20 ucts based on research conducted by Federal agen-
21 cies; and

22 “(3) coordinate with the Director of the Made
23 in America Office at the Office of Management and
24 Budget to use the procedures described in section
25 204(c)(2)(A)(i) of title 35, United States Code, to
26 identify appropriate domestic manufacturers and in-

1 107 of the American Innovation and Competi-
2 tiveness Act (15 U.S.C. 272 note) to ensure
3 that Federal science, engineering, and tech-
4 nology research is being transferred to domestic
5 manufacturers to modernize manufacturing
6 processes in accordance with section 2(b)(1) of
7 the National Institute of Standards and Tech-
8 nology Act (15 U.S.C. 272(b)(1)); and
9 (2) submit to the Committee on Commerce,
10 Science, and Transportation of the Senate and the
11 Committee on Science, Space, and Technology of the
12 House of Representatives a report on the findings of
13 the Director with respect to the study and review
14 completed under paragraph (1).

15 **SEC. 4. PREFERENCE FOR UNITED STATES INDUSTRY.**

16 Section 204 of title 35, United States Code, is
17 amended to read as follows:

18 **“§ 204. Preference for United States industry**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COUNTRY OF CONCERN.—The term ‘coun-
21 try of concern’ means a country that—

22 “(A) is a covered nation, as that term is
23 defined in section 4872(d) of title 10; or

1 “(B) the Secretary of Commerce deter-
2 mines is engaged in conduct that is detrimental
3 to the national security of the United States.

4 “(2) MANUFACTURED SUBSTANTIALLY IN THE
5 UNITED STATES.—The term ‘manufactured substan-
6 tially in the United States’ means manufactured
7 substantially from all articles, materials, or supplies
8 mined, produced, or manufactured in the United
9 States.

10 “(3) RELEVANT CONGRESSIONAL COMMIT-
11 TEES.—The term ‘relevant congressional commit-
12 tees’ means—

13 “(A) the Committee on Commerce,
14 Science, and Transportation of the Senate; and

15 “(B) the Committee on Science, Space,
16 and Technology of the House of Representa-
17 tives.

18 “(b) GENERAL PREFERENCE.—Notwithstanding any
19 other provision of this chapter, and subject to subsection
20 (c), no small business firm or nonprofit organization which
21 receives title to any subject invention and no assignee of
22 any such small business firm or nonprofit organization
23 shall grant to any person the exclusive right to use or sell
24 any subject invention unless such person agrees that any
25 products embodying the subject invention or produced

1 through the use of the subject invention will be manufac-
2 tured substantially in the United States.

3 “(c) WAIVERS.—

4 “(1) IN GENERAL.—In individual cases, subject
5 to paragraph (2), the requirement for an agreement
6 described in subsection (b) may be waived by the
7 Federal agency under whose funding agreement the
8 applicable subject invention was made upon a show-
9 ing by the small business firm, nonprofit organiza-
10 tion, or assignee that reasonable but unsuccessful ef-
11 forts have been made to grant licenses on similar
12 terms to potential licensees that would be likely to
13 manufacture substantially in the United States or
14 that under the circumstances domestic manufacture
15 is not commercially feasible.

16 “(2) CONDITIONS ON WAIVERS.—

17 “(A) BEFORE GRANT OF WAIVER.—Before
18 granting a waiver under paragraph (1), a Fed-
19 eral agency shall—

20 “(i) comply with the procedures devel-
21 oped and implemented pursuant to section
22 70923(b)(2) of the Build America, Buy
23 America Act (subtitle A of title IX of divi-
24 sion G of Public Law 117–58); and

1 “(ii) in carrying out clause (i), pre-
 2 serve the confidentiality or trade sensitive
 3 nature of information included in the ap-
 4 plicable application for a license.

5 “(B) PROHIBITION ON GRANTING CERTAIN
 6 WAIVERS.—A Federal agency may not grant a
 7 waiver under paragraph (1) if, as a result of
 8 the waiver, products embodying the applicable
 9 subject invention, or produced through the use
 10 of the applicable subject invention, will be man-
 11 ufactured substantially in a country of concern.

12 “(3) ANNUAL REPORT TO CONGRESSIONAL
 13 COMMITTEES.—Not later than 1 year after the date
 14 of enactment of the Invent Here, Make Here Act of
 15 2023, and annually thereafter, each Federal agency
 16 that, during the preceding year, has received a re-
 17 quest for a waiver under this subsection shall submit
 18 to the relevant congressional committees a report re-
 19 garding the decision of the Federal agency to grant
 20 or deny each such request.”.

21 **SEC. 5. AMENDMENTS TO THE DIRECTORATE FOR TECH-**
 22 **NOLOGY, INNOVATION, AND PARTNERSHIPS.**

23 Subtitle G of title III of the Research and Develop-
 24 ment, Competition, and Innovation Act (42 U.S.C. 19101
 25 et seq.) is amended—

1 (1) in section 10382—

2 (A) in paragraph (2), by striking “and”
3 after the semicolon;

4 (B) in paragraph (3), by striking the pe-
5 riod at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(4) ensure that products developed through re-
8 search funded by the Directorate will be manufac-
9 tured in the United States.”;

10 (2) in section 10383—

11 (A) in paragraph (2), in the matter pre-
12 ceding subparagraph (A), by striking “prod-
13 ucts,” and inserting “products that will be
14 manufactured in the United States,”;

15 (B) in paragraph (4)(C), by inserting
16 “producing,” after “capable of”;

17 (C) in paragraph (6), by striking “and”
18 after the semicolon;

19 (D) in paragraph (7), by striking the pe-
20 riod at the end and inserting “; and”; and

21 (E) by adding at the end the following:

22 “(8) develop industrial capacity to produce in-
23 novations competitively in the United States for the
24 global marketplace.”;

25 (3) in section 10384—

1 (A) in paragraph (1), by striking “and”
2 after the semicolon;

3 (B) in paragraph (2), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(3) maximizes economic benefits by ensuring
7 that innovations developed from research awards are
8 produced in the United States.”;

9 (4) in section 10385—

10 (A) in subsection (b)(1), by striking “and
11 commercialization” and inserting “commer-
12 cialization, and domestic production”; and

13 (B) in subsection (c)(2), by striking “and
14 commercialization” and inserting “commer-
15 cialization, and domestic production”;

16 (5) in section 10386(b)(2), by inserting “with
17 domestic manufacturing operations” after “private
18 sector”;

19 (6) in section 10389(a), by striking “and com-
20 mercialization” and inserting “commercialization,
21 and domestic production”;

22 (7) in section 10391(a), by striking “and com-
23 mercialization” and inserting “commercialization,
24 and domestic production”; and

1 (8) in section 10394(f)(5), by striking “and, as
2 appropriate, commercializing” and inserting “, com-
3 mercializing, and producing”.

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