

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN introduced the following bill; which was read twice and referred  
to the Committee on \_\_\_\_\_

\_\_\_\_\_

**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 [“  
5 \_\_\_\_\_ Act of \_\_\_\_\_”.]

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       vestors to commercialize products based on Federal  
2       research and manufacture such products in the  
3       United States.”.

4   **SEC. 3. STUDY AND COMPREHENSIVE REVIEW OF COMMER-**  
5                   **IALIZATION OF FEDERAL RESEARCH BY DO-**  
6                   **MESTIC MANUFACTURERS.**

7       Not later than 540 days after the date of enactment  
8       of this Act, the Director of the National Institute of  
9       Standards and Technology shall—

10           (1) complete a study and comprehensive review  
11           of the commercialization of Federal research by do-  
12           mestic manufacturers that—

13                   (A) addresses—

14                           (i) what barriers currently (as of the  
15                           date on which the study is completed) exist  
16                           for domestic manufacturers to commer-  
17                           cialize Federal research; and

18                           (ii) what role investment and the  
19                           availability of investors plays in the en-  
20                           couragement or discouragement of the  
21                           commercialization of Federal research by  
22                           domestic manufacturers; and

23                   (B) provides recommendations for modi-  
24                   fications to the comprehensive strategic plan de-  
25                   veloped and implemented pursuant to section

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 \_\_\_\_\_ Act of  
15 \_\_\_\_\_, and annually thereafter, each Federal  
16 agency that, during the preceding year, has received  
17 a request for a waiver under this subsection shall  
18 submit to the relevant congressional committees a  
19 report regarding the decision of the Federal agency  
20 to grant 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”.