

S. 1956 Baldwin — Substitute

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

**S. 1956**

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

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. BALDWIN *for herself and Mr. Vance*

Viz:

1 Strike all after the enacting clause and insert the following:  
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Invent Here, Make  
5 Here Act of 2024”.

6 **SEC. 2. IMPROVEMENT OF COMMERCIALIZATION OF FEDERAL RESEARCH BY DOMESTIC MANUFACTURERS.**  
7  
8

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

1           “(f) COMMERCIALIZATION OF FEDERAL RESEARCH  
2 BY DOMESTIC MANUFACTURERS.—In order for the Insti-  
3 tute to meet the need described in section 1(a)(1) and  
4 most effectively carry out the activities under subsection  
5 (e)(1) of this section, the Director shall—

6           “(1) coordinate with the Secretary of Defense,  
7 the Secretary of Energy, the Director of the Na-  
8 tional Science Foundation, and industry organiza-  
9 tions to identify domestic manufacturers that can  
10 develop commercial products based on completed re-  
11 search conducted by Federal agencies;

12           “(2) work with the Administrator of the Small  
13 Business Administration to identify domestic inves-  
14 tors to support the development of commercial prod-  
15 ucts based on research conducted by Federal agen-  
16 cies; and

17           “(3) maintain a publicly accessible and search-  
18 able database of domestic manufacturers and their  
19 capabilities with respect to commercialization of fed-  
20 erally funded research.”.

1 **SEC. 3. STUDY AND COMPREHENSIVE REVIEW OF COMMER-**  
2 **CIALIZATION OF FEDERAL RESEARCH BY DO-**  
3 **MESTIC MANUFACTURERS.**

4 Not later than 540 days after the date of enactment  
5 of this Act, the Director of the National Institute of  
6 Standards and Technology shall—

7 (1) complete a study and comprehensive review  
8 of the commercialization of Federal research by do-  
9 mestic manufacturers that—

10 (A) addresses—

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

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

20 (B) provides recommendations for modi-  
21 fications to the comprehensive strategic plan de-  
22 veloped and implemented pursuant to section  
23 107 of the American Innovation and Competi-  
24 tiveness Act (15 U.S.C. 272 note) to ensure  
25 that Federal science, engineering, and tech-  
26 nology research is being transferred to domestic

1 manufacturers to modernize manufacturing  
2 processes in accordance with section 2(b)(1) of  
3 the National Institute of Standards and Tech-  
4 nology Act (15 U.S.C. 272(b)(1)); and

5 (2) submit to the Committee on Commerce,  
6 Science, and Transportation of the Senate, the Com-  
7 mittee on the Judiciary of the Senate, the Com-  
8 mittee on Science, Space, and Technology of the  
9 House of Representatives, and the Committee on the  
10 Judiciary of the House of Representatives a report  
11 on the findings of the Director with respect to the  
12 study and review completed under paragraph (1).

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

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

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

17 “(a) DEFINITIONS.—In this section:

18 “(1) COUNTRY OF CONCERN.—The term ‘coun-  
19 try of concern’ has the meaning given the term ‘cov-  
20 ered nation’ in section 4872(d) of title 10.

21 “(2) RELEVANT CONGRESSIONAL COMMIT-  
22 TEES.—The term ‘relevant congressional commit-  
23 tees’ means—

24 “(A) the Committee on Commerce,  
25 Science, and Transportation of the Senate;

1                   “(B) the Committee on the Judiciary of  
2                   the Senate;

3                   “(C) the Committee on Science, Space, and  
4                   Technology of the House of Representatives;  
5                   and

6                   “(D) the Committee on the Judiciary of  
7                   the House of Representatives.

8           “(b) GENERAL PREFERENCE.—Notwithstanding any  
9 other provision of this chapter, and subject to subsection  
10 (c), no small business firm or nonprofit organization which  
11 receives title to any subject invention and no assignee of  
12 any such small business firm or nonprofit organization  
13 shall grant to any person the exclusive right to use or sell  
14 any subject invention in the United States unless such per-  
15 son agrees that any products embodying the subject inven-  
16 tion or produced through the use of the subject invention  
17 will be manufactured substantially in the United States.

18           “(c) WAIVERS.—

19                   “(1) IN GENERAL.—In individual cases, subject  
20                   to paragraphs (2) and (3), the Federal agency under  
21                   whose funding agreement the applicable subject in-  
22                   vention was made may waive the requirement for an  
23                   agreement described in subsection (b) upon a show-  
24                   ing by the applicable small business firm, nonprofit  
25                   organization, or assignee that reasonable but unsuc-

1        successful efforts have been made to grant licenses on  
2        similar terms to potential licensees that would be  
3        likely to manufacture substantially in the United  
4        States or that under the circumstances domestic  
5        manufacture is not commercially feasible.

6            “(2) REVIEW TIMELINE.—Not later than 90  
7        days after the date on which a Federal agency re-  
8        ceives a request for a waiver described in paragraph  
9        (1) and with respect to which paragraph (3) does  
10       not apply, the Federal agency shall issue a decision  
11       regarding whether to grant the request.

12           “(3) PROHIBITION ON GRANTING CERTAIN  
13        WAIVERS WITHOUT PRESIDENTIAL AUTHORIZA-  
14        TION.—If granting a waiver under paragraph (1)  
15        would result in products embodying the applicable  
16        subject invention or produced through the use of the  
17        applicable subject invention being manufactured sub-  
18        stantially in a country of concern, the applicable  
19        Federal agency may not grant the waiver without  
20        the written authorization of the President (or a des-  
21        ignee of the President).

22           “(4) ANNUAL REPORT TO CONGRESSIONAL  
23        COMMITTEES.—

24           “(A) IN GENERAL.—Not later than 1 year  
25        after the date of enactment of the Invent Here,



1           embodiment of the subject invention or  
2           produced through the use of the sub-  
3           ject invention would be manufactured  
4           substantially in the United States;  
5           and

6                       “(III) in which markets the prod-  
7                       ucts embodying the applicable subject  
8                       invention or produced through the use  
9                       of the applicable subject invention will  
10                      be sold; and

11                     “(ii) with respect to a small business  
12                     firm or nonprofit organization that is  
13                     based in the United States and has elected  
14                     to retain title to a subject invention pursu-  
15                     ant to section 202, whether that firm or  
16                     organization intends to manufacture that  
17                     subject invention in a foreign country for  
18                     a foreign market.

19                     “(C) PRESERVATION OF CONFIDEN-  
20                     TIALITY.—Each Federal agency that is required  
21                     to submit a report under this paragraph shall  
22                     preserve the confidentiality or trade sensitive  
23                     nature of all information included in each such  
24                     report.”.



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

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

6 (1) in section 10382—

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

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

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

12 “(4) strongly encourage that products developed  
13 through research funded by the Directorate will be  
14 manufactured in the United States.”;

15 (2) in section 10383—

16 (A) in paragraph (2), in the matter pre-  
17 ceding subparagraph (A), by striking “prod-  
18 ucts,” and inserting “products that will be  
19 manufactured in the United States,”;

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

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

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

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

1           “(8) develop industrial capacity to produce in-  
2           novations competitively in the United States for the  
3           global marketplace.”;

4           (3) in section 10384—

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

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

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

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

13           (4) in section 10385—

14                 (A) in subsection (b)(1), by striking “and  
15           commercialization” and inserting “commer-  
16           cialization, and domestic production”; and

17                 (B) in subsection (c)(2), by striking “and  
18           commercialization” and inserting “commer-  
19           cialization, and domestic production”;

20           (5) in section 10386(b)(2), by inserting “with  
21           domestic manufacturing operations” after “private  
22           sector”;

23           (6) in section 10389(a), by striking “and com-  
24           mercialization” and inserting “commercialization,  
25           and domestic production”;

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1           (7) in section 10391(a), by striking “and com-  
2           mercialization” and inserting “commercialization,  
3           and domestic production”; and

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