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

__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 ________ ”.]

SEC. 2. IMPROVEMENT OF COMMERCIALIZATION OF FEDERAL RESEARCH BY DOMESTIC MANUFACTURERS.

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

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

“(1) coordinate with the Manufacturing USA Network established under section 34(c)(1) to identify domestic manufacturers that can develop commercial products based on research conducted by Federal agencies;

“(2) work with the Administrator of the Small Business Administration to identify domestic investors to support the development of commercial products based on research conducted by Federal agencies; and

“(3) coordinate with the Director of the Made in America Office at the Office of Management and Budget to use the procedures described in section 204(c)(2)(A)(i) of title 35, United States Code, to identify appropriate domestic manufacturers and in-
vestors to commercialize products based on Federal research and manufacture such products in the United States.”.

SEC. 3. STUDY AND COMPREHENSIVE REVIEW OF COMMERCIALIZATION OF FEDERAL RESEARCH BY DOMESTIC MANUFACTURERS.

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

(1) complete a study and comprehensive review of the commercialization of Federal research by domestic manufacturers that—

(A) addresses—

(i) what barriers currently (as of the date on which the study is completed) exist for domestic manufacturers to commercialize Federal research; and

(ii) what role investment and the availability of investors plays in the encouragement or discouragement of the commercialization of Federal research by domestic manufacturers; and

(B) provides recommendations for modifications to the comprehensive strategic plan developed and implemented pursuant to section
107 of the American Innovation and Competitiveness Act (15 U.S.C. 272 note) to ensure that Federal science, engineering, and technology research is being transferred to domestic manufacturers to modernize manufacturing processes in accordance with section 2(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)(1)); and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the findings of the Director with respect to the study and review completed under paragraph (1).

SEC. 4. PREFERENCE FOR UNITED STATES INDUSTRY.

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

“§ 204. Preference for United States industry

“(a) DEFINITIONS.—In this section:

“(1) COUNTRY OF CONCERN.—The term ‘country of concern’ means a country that—

“(A) is a covered nation, as that term is defined in section 4872(d) of title 10; or
“(B) the Secretary of Commerce determines is engaged in conduct that is detrimental to the national security of the United States.

“(2) MANUFACTURED SUBSTANTIALLY IN THE UNITED STATES.—The term ‘manufactured substantially in the United States’ means manufactured substantially from all articles, materials, or supplies mined, produced, or manufactured in the United States.

“(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term ‘relevant congressional committees’ means—

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

“(B) the Committee on Science, Space, and Technology of the House of Representatives.

“(b) GENERAL PREFERENCE.—Notwithstanding any other provision of this chapter, and subject to subsection (c), no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention unless such person agrees that any products embodying the subject invention or produced
through the use of the subject invention will be manufactured substantially in the United States.

“(c) WAIVERS.—

“(1) IN GENERAL.—In individual cases, subject to paragraph (2), the requirement for an agreement described in subsection (b) may be waived by the Federal agency under whose funding agreement the applicable subject invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

“(2) CONDITIONS ON WAIVERS.—

“(A) BEFORE GRANT OF WAIVER.—Before granting a waiver under paragraph (1), a Federal agency shall—

“(i) comply with the procedures developed and implemented pursuant to section 70923(b)(2) of the Build America, Buy America Act (subtitle A of title IX of division G of Public Law 117–58); and
“(ii) in carrying out clause (i), preserve the confidentiality or trade sensitive nature of information included in the applicable application for a license.

“(B) Prohibition on granting certain waivers.—A Federal agency may not grant a waiver under paragraph (1) if, as a result of the waiver, products embodying the applicable subject invention, or produced through the use of the applicable subject invention, will be manufactured substantially in a country of concern.

“(3) Annual report to congressional committees.—Not later than 1 year after the date of enactment of the _________________ Act of ______, and annually thereafter, each Federal agency that, during the preceding year, has received a request for a waiver under this subsection shall submit to the relevant congressional committees a report regarding the decision of the Federal agency to grant or deny each such request.”.

SEC. 5. AMENDMENTS TO THE DIRECTORATE FOR TECHNOLOGY, INNOVATION, AND PARTNERSHIPS.

Subtitle G of title III of the Research and Development, Competition, and Innovation Act (42 U.S.C. 19101 et seq.) is amended—
(1) in section 10382—

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

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) ensure that products developed through research funded by the Directorate will be manufactured in the United States.”;

(2) in section 10383—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking “products,” and inserting “products that will be manufactured in the United States,”;

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

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

(D) in paragraph (7), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(8) develop industrial capacity to produce innovations competitively in the United States for the global marketplace.”;

(3) in section 10384—
(A) in paragraph (1), by striking “and” after the semicolon;
(B) in paragraph (2), by striking the period at the end and inserting “; and”; and
(C) by adding at the end the following:
“(3) maximizes economic benefits by ensuring that innovations developed from research awards are produced in the United States.”;

(4) in section 10385—
(A) in subsection (b)(1), by striking “and commercialization” and inserting “commercialization, and domestic production”; and
(B) in subsection (e)(2), by striking “and commercialization” and inserting “commercialization, and domestic production”; 
(5) in section 10386(b)(2), by inserting “with domestic manufacturing operations” after “private sector”; 
(6) in section 10389(a), by striking “and commercialization” and inserting “commercialization, and domestic production”; 
(7) in section 10391(a), by striking “and commercialization” and inserting “commercialization, and domestic production”; and
(8) in section 10394(f)(5), by striking “and, as appropriate, commercializing” and inserting “, commercializing, and producing”.