

# S.6

To establish a strategy to encourage manufacturing in the United States and for the repatriation of manufacturing jobs off-shored to other countries, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

Mr. Hersey introduced the following bill;

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## A BILL

To establish a strategy to encourage manufacturing in the United States and for the repatriation of manufacturing jobs off-shored to other countries, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bring Jobs Back to America Act”.

### **SEC. 2. NATIONAL MANUFACTURING AND REPATRIATION STRATEGY.**

(a) NATIONAL MANUFACTURING STRATEGY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce (referred to in this Act as the “Secretary”) shall—

(1) develop a comprehensive national manufacturing strategy that aims to—

(A) increase overall domestic manufacturing;

(B) create private sector jobs;

(C) identify emerging technologies to strengthen American competitiveness in the global marketplace; and

(D) identify a strategy for repatriating jobs to the United States;

(2) submit a report to Congress summarizing the progress and trends in manufacturing growth since the Secretary's 2004 report, "Manufacturing in America: A Comprehensive Strategy to Address the Challenges to U.S. Manufacturers";

(3) establish targets for manufacturing growth, including a subset of targets for jobs repatriated to the United States, for each fiscal year 2012 through 2016, and report such targets to Congress; and

(4) conduct a survey of all existing Federal manufacturing support programs and submit a report to Congress that includes recommendations on how each Federal program surveyed can best support the comprehensive national manufacturing strategy.

(b) BIENNIAL AMERICAN FIRM SURVEY AND REPORT.—

(1) SURVEY.—Not later than 1 year after the date of the enactment of this Act and every 2 years thereafter through fiscal year 2023, the Secretary shall conduct a survey of all firms with headquarters in the United States that maintain manufacturing facilities or customer service centers outside of the United States to identify—

(A) categories of products manufactured or services provided at such facilities; and

(B) the number of jobs located at such facilities.

(2) DATABASE.—The Secretary shall create and maintain a database of the information collected through each survey.

(3) REPORT.—The Secretary shall report to Congress on the information gathered in each survey, including longitudinal trends in American manufacturing and the repatriation of jobs.

(4) PENALTY.—Any firm described in paragraph (1) that chooses not to participate in the survey shall not be eligible to receive Federal contracts or to renew existing Federal contracts.

### **SEC. 3. REPATRIATION TASK FORCES.**

(a) ESTABLISHMENT.—The Secretary shall establish such task forces as the Secretary considers necessary to accomplish the established targets for job repatriation and manufacturing growth established under section 2(a)(3).

(b) APPOINTMENT.—Each task force established under subsection (a) shall be appointed by the Secretary and include the following members:

(1) At least one representative of each of the following components of the Department of Commerce:

(A) Office of the Secretary of Commerce.

(B) Economic Development Administration.

(C) International Trade Administration.

(D) United States Patent and Trademark Office.

(E) National Institute of Standards and Technology.

(F) Bureau of Industry and Security.

(2) At least one representative of the private sector.

(c) DUTIES.—Each task force established under subsection (a) shall—

(1) identify United States firms interested in repatriating production or services to the United States;

(2) identify the unique needs of each firm necessary to facilitate repatriation;

(3) advise and assist firms and State and local governments to promote and facilitate repatriation opportunities;

(4) act as an impartial advocate for all State and local governments choosing to compete for a repatriating firm's facility or jobs;

(5) to the maximum extent practicable, work with Federal agencies to provide the technical assistance necessary to firms and State and local governments to facilitate the repatriation of facilities or jobs to the United States; and

(6) educate firms and State and local governments on the National Manufacturing Strategy established under section (2)(a), the task forces established under subsection (a), and all Federal assistance available to facilitate repatriation.

#### **SEC. 4. AMERICAN ECONOMIC SECURITY COMMISSION.**

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the “American Economic Security Commission”.

(b) **DUTIES.**—The Commission shall carry out the following duties:

(1) **PROGRAM FOR AMERICAN COMPETITIVENESS.**—The Commission shall establish and carry out a program to improve the competitiveness of the United States in the global economy through technology-based planning. Under the program, the Commission shall, on an ongoing basis—

(A) assess the competitiveness of the United States in sectors of the global economy including the manufacturing, aerospace, communications, information technology, energy, and biotechnology sectors;

(B) identify, including through use of the Technology Database and Mapping Program developed under paragraph (2)—

(i) markets (including anticipated markets) for new and developing technologies in such sectors of the global economy; and

(ii) new and developing technologies, including manufacturing technologies, that may be used to gain a competitive advantage in such sectors of the global economy; and

(C) identify measures to take advantage of the markets and technologies identified under clauses (i) and (ii) of subparagraph (B), respectively, to give the United States a competitive advantage in such sectors of the global economy, including, as appropriate, measures to encourage and facilitate the development, acquisition, and use of technologies described in such clauses.

(2) **TECHNOLOGY DATABASE AND MAPPING PROGRAM.**—The Commission shall develop a detailed, accurate, and comprehensive computer program, to be known as the “Technology Database and Mapping Program”, to identify and keep track of new and developing technologies described in clauses (i) and (ii) of paragraph (1)(B).

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(A) Three members appointed by the majority leader of the Senate.

(B) Three members appointed by the minority leader of the Senate.

(C) Three members appointed by the Speaker of the House of Representatives.

(D) Three members appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Each member of the Commission shall be appointed not later than 180 days after the date of the enactment of this Act.

(3) TERMS.—Each member of the Commission shall be appointed for a term of 2 years, and may serve no more than 3 terms.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) SERVICE WITHOUT PAY.—The members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(7) QUORUM.—Eight members of the Commission shall constitute a quorum, except that if a majority of members in the quorum have been appointed by a leader of the same political party, the quorum shall include no fewer than 3 members appointed by a leader of the other political party.

(8) CHAIR AND VICE CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members. The term of office of the Chair and vice Chair shall be 2 years.

(9) MEETINGS.—The Commission shall meet at least once each month at the call of the Chair or a majority of its members. The Commission shall hold at least one meeting in person in each of 6 months per year.

(d) DIRECTOR AND STAFF OF COMMISSION.—

(1) DIRECTOR.—

(A) IN GENERAL.—Subject to paragraph (3) and to the extent provided in advance in appropriation Acts, the Commission shall appoint and fix the compensation of a director.

(B) DUTIES.—The director of the Commission shall be responsible for the administration and coordination of the duties of the Commission and shall perform such other duties as the Commission may direct.

(2) STAFF.—In accordance with rules agreed upon by the Commission, subject to paragraph (3), and to the extent provided in advance in appropriation Acts, the director may appoint and fix the compensation of such additional personnel as may be necessary to enable the Commission to carry out its duties.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that compensation fixed under paragraph (1)(A) may not exceed \$150,000 per year, and compensation fixed under paragraph (2) may not exceed a rate equal to the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) EXPERTS AND CONSULTANTS.—In accordance with rules agreed upon by the Commission and to the extent provided in advance in appropriation Acts, the director may procure the services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, without reimbursement from the

Commission, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section. Such detailee shall retain the rights, status, and privileges of their regular employment without interruption.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chair of the Commission, the head of that department or agency shall, to the extent authorized by law, furnish such information to the Commission.

(4) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Chair of the Commission.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(7) CONTRACT AUTHORITY.—To the extent or in the amounts provided in advance in appropriation Acts, the Commission may contract with and compensate

government and private agencies or persons to enable the Commission to discharge its duties under this Act.

(f) **REPORTS.**—The Commission shall issue to Congress periodic reports on the following, as the Commission considers appropriate:

(1) The assessment of the competitiveness of the United States under subsection (b)(1)(A).

(2) The markets and technologies identified under subsection (b)(1)(B).

(3) The measures identified under subsection (b)(1)(C), and any factors affecting the implementation of such measures, including—

(A) proposed trade agreements and the enforcement of existing trade agreements;

(B) taxation;

(C) cybersecurity;

(D) the United States patent system;

(E) intellectual property laws and the enforcement of such laws;

(F) education, including vocational training;

(G) research and development programs; and

(H) infrastructure.

(4) Such other reports as are requested by members of Congress or congressional committees.

(g) **TERMINATION.**—The authority for the Commission provided in this section shall terminate and the Commission shall be dissolved on September 30, 2023.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000 for each of the fiscal years 2023 through 2024. No amount is authorized to carry out this section for a fiscal year unless the appropriation for the



Economic Development Administration for such fiscal year is reduced by an amount equal to the amount appropriated to carry out this section for such fiscal year.

## **SEC. 5. PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 ASSISTANCE ELIGIBILITY.**

(a) GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT.—Section 201(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141(a)) is amended—

(1) in paragraph (1) by striking “and” at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon;  
and

(3) by adding at the end the following:

“(3) projects to facilitate the relocation, to the United States, of a source of employment located outside the United States; and

“(4) projects to facilitate the growth of the manufacturing sector or the customer service sector.”.

(b) BASE CLOSINGS AND REALIGNMENTS.—Section 202 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3142) is amended by inserting after “or realignment” the following: “, including a project to facilitate the relocation, to the United States, of a source of employment located outside the United States or to facilitate the growth of the manufacturing sector or the customer service sector,”.

(c) GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.—Section 203(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(a)) is amended by inserting after “economic development planning” the following: “, including planning with respect to projects to facilitate the relocation, to the United States, of a source of employment located outside the United States or to facilitate the growth of the manufacturing sector or the customer service sector,”.

(d) GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking subparagraph (H);

(2) by redesignating subparagraph (I) as subparagraph (K); and

(3) by inserting after subparagraph (G) the following:

“(H) assessment, marketing, and establishment of business clusters;

“(I) activities to facilitate the relocation, to the United States, of a source of employment located outside the United States;

“(J) activities to facilitate the growth of the manufacturing sector or the customer service sector; and”.

(e) GRANTS FOR ECONOMIC ADJUSTMENT.—Section 209(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(a)) is amended by inserting after “loan fund),” the following: “projects to facilitate the relocation, to the United States, of a source of employment located outside the United States, projects to facilitate the growth of the manufacturing sector or the customer service sector,”.

## **SEC. 6. STUDY OF TAX PROVISIONS TO ENCOURAGE REPATRIATION OF UNITED STATES JOBS.**

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Commerce, shall conduct a study on the feasibility and potential impact of new tax provisions to encourage United States companies to return jobs to the United States. Such study shall include—

(1) a review of—

(A) the past effectiveness of section 956 of the Internal Revenue Code of 1986, and

(B) the potential effectiveness of other tax provisions which would encourage the repatriation foreign earnings, and

(2) an estimate of the loss in tax revenue associated with any provision for each job created.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report of such study.

## **SEC. 7. PATENT PROTECTION AND PRIORITIZATION.**

(a) PRE-PUBLICATION OF ABSTRACTS ONLY.—Section 122 of title 35, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking “, each application for a patent” and inserting “and with respect to an application for a patent, the abstract included with such application”; and

(II) by striking “an application” and inserting “an abstract”;

(ii) in subparagraph (B), by striking “patent applications” each place it appears and inserting “abstracts included with patent applications”; and

(iii) in subparagraph (C), by striking “patent application” each place it appears and inserting “abstract included with a patent application”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “An application” and inserting “An abstract included with an application”;

(ii) in subparagraph (B)—

(I) in clause (i), by striking “the application” and inserting “the abstract included with the application”; and

(II) in clause (iv), by striking “the application” and inserting “the abstract included with the application”; and

(iii) by striking clause (v);

(2) by striking subsection (c);

(3) by redesignating subsection (d) as subsection (c); and

(4) in subsection (c), as so redesignated, by striking “No application” and inserting “No abstract included with an application”.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents for chapter 11 of part 2 of title 35, United States Code, is amended in the item relating to section 122 by inserting before “patent applications” the following: “abstracts included with”.

(2) PUBLICATIONS.—Section 10 of title 35, United States Code, is amended by striking “published applications” and inserting “published abstracts included with applications”.

(3) ABSTRACT DEFINITION.—Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

“(f) The term ‘abstract’ shall have the meaning given such term, by regulation, by the Director.”.

(4) CONDITIONS FOR PATENTABILITY.—Section 102(e) of title 35, United States Code, is amended to read as follows:

“(e) the invention was described in—

“(1) a patent granted on an application for patent by another in an international application filed under the treaty defined in section 351(a); and

“(2) such application designated the United States and was published under Article 21(2) of such treaty in the English language; or”.

(5) INTERFERENCES.—Section 135(b) of title 35, United States Code, is amended to read as follows:

“(b) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may not be made in any application unless such a claim is made prior to one year from the date on which the patent was granted.”.

(6) PROVISIONAL RIGHTS.—Section 154(d)(1) of title 35, United States Code, is amended—

(A) by striking “publication of the application for such patent under section 122(b), or in the case of”; and

(B) by striking “, the date of publication of the application”.

(7) **SECURITY OF CERTAIN INVENTIONS.**—Section 181 of title 35, United States Code, is amended—

(A) by striking “publication of an application” each place it appears and inserting “publication of an abstract included with an application”; and

(B) by striking “publication of the application” each place it appears and inserting “publication of the abstract included with the application”.

(c) **PRIORITIZATION FOR HIGHER EDUCATION INSTITUTIONS.**—Section 131 of title 35, United States Code, is amended—

(1) by striking “The Director” and inserting the following:

“(a) **IN GENERAL.**—The Director”; and

(2) by adding at the end the following new subsection:

“(b) **PRIORITY OF EXAMINATION FOR CERTAIN APPLICATIONS.**—The Director shall give priority to the examination of an application made by an applicant that is—

“(1) an institution of higher education, as such term is defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or

“(2) a patent holding company affiliated with such an institution.”.