AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8673
OFFERED BY MS. STEVENS OF MICHIGAN

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Expanding Partnerships for Innovation and Competitiveness Act”.

SEC. 2. FOUNDATION FOR STANDARDS AND METROLOGY.
(a) IN GENERAL.—Subtitle B of title II of the Research and Development, Competition, and Innovation Act (42 U.S.C. 18931 et seq.; relating to measurement research of the National Institute of Standards and Technology for the future; enacted as part of division B of Public Law 117–167) is amended by adding at the end the following new section:
“SEC. 10236. FOUNDATION FOR STANDARDS AND METROLOGY.
“(a) Establishment.—The Secretary, acting through the Director, shall establish a nonprofit corporation to be known as the ‘Foundation for Standards and Metrology’.
“(b) MISSION.—The mission of the Foundation shall be to—

“(1) support the Institute in carrying out its activities and mission to advance measurement science, technical standards, and technology in ways that enhance the economic security and prosperity of the United States; and

“(2) advance collaboration with researchers, institutions of higher education, industry, and nonprofit and philanthropic organizations to accelerate the development of technical standards, measurement science, and the commercialization of emerging technologies in the United States.

“(c) ACTIVITIES.—In carrying out its mission under subsection (b), the Foundation may carry out the following:

“(1) Support international metrology and technical standards engagement activities.

“(2) Support studies, projects, and research on metrology and the development of benchmarks and technical standards infrastructure across the Institute’s mission areas.

“(3) Advance collaboration between the Institute and researchers, industry, nonprofit and philanthropic organizations, institutions of higher edu-
cation, federally funded research and development centers, and State, Tribal, and local governments.

“(4) Support the expansion and improvement of research facilities and infrastructure at the Institute to advance the development of emerging technologies.

“(5) Support the commercialization of federally funded research.

“(6) Conduct education and outreach activities.

“(7) Offer direct support to NIST associates, including through the provision of fellowships, grants, stipends, travel, health insurance, professional development training, housing, technical and administrative assistance, recognition awards for outstanding performance, and occupational safety and awareness training and support, and other appropriate expenditures.

“(8) Conduct such other activities as determined necessary by the Foundation to carry out its mission.

“(d) AUTHORITY OF THE FOUNDATION.—The Foundation shall be the sole entity responsible for carrying out the activities described in subsection (e).

“(e) STAKEHOLDER ENGAGEMENT.—The Foundation shall convene, and may consult with, representatives
from the Institute, institutions of higher education, the private sector, non-profit organizations, and commercialization organizations to develop activities for the mission of the Foundation under subsection (b) and to advance the activities of the Foundation under subsection (c).

“(f) LIMITATION.—The Foundation shall not be an agency or instrumentality of the Federal Government.

“(g) SUPPORT.—The Foundation may receive, administer, solicit, accept, and use funds, gifts, devises, or bequests, either absolutely or in trust of real or personal property or any income therefrom or other interest therein to support activities under subsection (e).

“(h) TAX EXEMPT STATUS.—The Board shall take all necessary and appropriate steps to ensure the Foundation is an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

“(i) BOARD OF DIRECTORS.—

“(1) ESTABLISHMENT.—The Foundation shall be governed by a Board of Directors.

“(2) COMPOSITION.—

“(A) IN GENERAL.—The Board shall be composed of the following:
“(i) Eleven appointed voting members described in subparagraph (B).

“(ii) Ex officio nonvoting members described in subparagraph (C).

“(B) APPOINTED MEMBERS.—

“(i) INITIAL MEMBERS.—The Secretary, acting through the Director, shall—

“(I) seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to develop a list of individuals to serve as members of the Board who are well qualified and will meet the requirements of clauses (ii) and (iii); and

“(II) appoint the initial members of the Board from such list, if applicable, in consultation with the National Academies of Sciences, Engineering, and Medicine.

“(ii) REPRESENTATION.—The appointed members of the Board shall reflect a broad cross-section of stakeholders across diverse sectors, regions and communities, including from academia, private sector entities, technical standards bodies,
the investment community, the philanthropic community, and other nonprofit organizations.

“(iii) EXPERIENCE.—The Secretary, acting through the Director, shall ensure the appointed members of the Board have the experience and are qualified to provide advice and information to advance the Foundation’s mission, including in science and technology research and development, technical standards, education, technology transfer, commercialization, or other aspects of the Foundation’s mission.

“(C) NONVOTING MEMBERS.—

“(i) EX OFFICIO MEMBERS.—The Director (or Director’s designee) shall be an ex officio member of the Board.

“(ii) NO VOTING POWER.—The Director (or Director’s designee), as an ex officio member in accordance with clause (i), shall not have voting power on the Board.

“(3) CHAIR AND VICE CHAIR.—

“(A) IN GENERAL.—The Board shall designate, from among its voting members—
“(i) an individual to serve as the chair
of the Board; and
“(ii) an individual to serve as the vice
chair of the Board.
“(B) TERMS.—The term of service of the
Chair and Vice Chair of the Board shall end on the earlier of—
“(i) the date that is three years after the date on which the Chair or Vice Chair of the Board, as applicable, is designated for the respective position; and
“(ii) the last day of the term of service of the member, as determined under paragraph (4)(A), who is designated to be Chair or Vice Chair of the Board, as applicable.
“(C) REPRESENTATION.—The Chair and Vice Chair of the Board—
“(i) may not be representatives of the same area of subject matter expertise, or entity, as applicable; and
“(ii) may not be representatives of any area of subject matter expertise, or entity, as applicable, represented by the im-
medially preceding Chair and Vice Chair
of the Board.

“(4) TERMS AND VACANCIES.—

“(A) TERM LIMITS.—Subject to subpara-
graph (B), the term of office of each member
of the Board shall be not more than five years,
except that a member of the Board may con-
tinue to serve after the expiration of the term
of such member until the expiration of the 180-
day period beginning on the date on which the
term of such member expires, if no new member
is appointed to replace the departing board
member.

“(B) INITIAL APPOINTED MEMBERS.—Of
the initial members of the Board appointed
under paragraph (4)(A), half of such members
shall serve for four years and half of such mem-
bers shall serve for five years, as determined by
the Chair of the Board.

“(C) VACANCIES.—Any vacancy in the
membership of the appointed members of the
Board—

“(i) shall be filled in accordance with
the bylaws of the Foundation by an indi-
vidual capable of representing the same
area or entity, as applicable, as represented by the vacating board member under paragraph (2)(B)(ii);

“(ii) shall not affect the power of the remaining appointed members to carry out the duties of the Board; and

“(iii) shall be filled by an individual selected by the Board.

“(5) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purposes of conducting the business of the Board.

“(6) DUTIES.—The Board shall carry out the following:

“(A) Establish bylaws for the Foundation in accordance with paragraph (7).

“(B) Provide overall direction for the activities of the Foundation and establish priority activities.

“(C) Coordinate with the Institute the activities of the Foundation to ensure consistency with the programs and policies of the Institute.

“(D) Evaluate the performance of the Executive Director of the Foundation.

“(E) Actively solicit and accept funds, gifts, grants, devises, or bequests of real or per-
sonal property to the Foundation, including
from private entities.

“(F) Carry out any other necessary activi-
ties of the Foundation.

“(7) BYLAWS.—The Board shall establish by-
laws for the Foundation. In establishing such by-
laws, the Board shall ensure the following:

“(A) The bylaws of the Foundation include
the following:

“(i) Policies for the selection of the
Board members, officers, employees,
agents, and contractors of the Foundation.

“(ii) Policies, including ethical and
disclosure standards, for the following:

“(I) The acceptance, solicitation,
and disposition of donations and
grants to the Foundation, including
appropriate limits on the ability of do-
nors to designate, by stipulation or re-
striction, the use or recipient of do-
nated funds.

“(II) The disposition of assets of
the Foundation.

“(iii) Policies that subject all employ-
ees, fellows, trainees, and other agents of
the Foundation (including appointed voting members and ex officio members of the Board) to conflict of interest standards.

“(iv) The specific duties of the Executive Director of the Foundation.

“(B) The bylaws of the Foundation and activities carried out under such bylaws do not—

“(i) reflect unfavorably upon the ability of the Foundation to carry out its responsibilities or official duties in a fair and objective manner; or

“(ii) compromise, or appear to compromise, the integrity of any governmental agency or program, or any officer or employee employed by, or involved in a governmental agency or program.

“(8) RESTRICTION ON MEMBERSHIP.—No employee of the Department of Commerce may be appointed as a voting member of the Board of Directors.

“(9) COMPENSATION.—

“(A) IN GENERAL.—Members of the Board may not receive compensation for serving on the Board.
“(B) CERTAIN EXPENSES.—In accordance with the bylaws of the Foundation, members of the Board may be reimbursed for travel expenses, including per diem in lieu of subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

“(10) LIAISON REPRESENTATIVES.—The Secretary, acting through the Director, shall designate representatives from across the Institute to serve as the liaisons to the Board and the Foundation.

“(11) PERSONAL LIABILITY OF BOARD MEMBERS.—The members of the Board shall not be personally liable, except in the case of malfeasance.

“(j) ADMINISTRATION.—

“(1) EXECUTIVE DIRECTOR.—

“(A) IN GENERAL.—The Foundation shall have an Executive Director who shall be appointed by the Board, and who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to the bylaws established under subsection (i)(7), the Executive Director shall be responsible for the daily operations of the Foundation in carrying out the activities of the Foundation under subsection (e).
“(B) RESPONSIBILITIES.—In carrying out the daily operations of the Foundation, the Executive Director of the Foundation shall carry out the following:

“(i) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of such officers and employees.

“(ii) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

“(iii) Enter into such contracts and execute legal instruments as are appropriate in carrying out the activities of the Foundation.

“(iv) Perform such other functions as necessary to operate the Foundation.

“(2) ADMINISTRATIVE CONTROL.—No member of the Board, officer or employee of the Foundation or of any program established by the Foundation, or participant in a program established by the Foundation, may exercise administrative control over any Federal employee.

“(3) TRANSFER OF FUNDS TO INSTITUTE.—The Foundation may transfer funds and property to
the Institute, which the Institute may accept and
use and which shall be subject to all applicable Fed-
eral limitations relating to federally funded research.

“(4) STRATEGIC PLAN.—Not later than one
year after the establishment of the Foundation, the
Foundation shall submit to the Committee on
Science, Space, and Technology of the House of
Representatives and the Committee on Commerce,
Science, and Transportation of the Senate a stra-
tegic plan that contains the following:

“(A) A plan for the Foundation to become
financially self-sustaining in the next five years.

“(B) Short- and long-term objectives of the
Foundation, as identified by the Board.

“(C) A description of the efforts the Foun-
dation will take to be transparent in the proc-
esses of the Foundation, including processes re-
lating to the following:

“(i) Grant awards, including selection,
review, and notification.

“(ii) Communication of past, current,
and future research priorities.

“(iii) Solicitation of and response to
public input on the priorities identified by
the Foundation.
“(D) A description of the financial goals and benchmarks of the Foundation for the following ten years.

“(E) A description of the efforts undertaken by the Foundation to ensure maximum complementarity and minimum redundancy with investments made by the Institute.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 18 months after the establishment of the Foundation and not later than February 1 of each year thereafter, the Foundation shall publish a report describing the activities of the Foundation during the immediately preceding fiscal year. Each such report shall include with respect to such fiscal year a comprehensive statement of the operations, activities, financial condition, progress, and accomplishments of the Foundation.

“(B) FINANCIAL CONDITION.—With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all support under subsection (g) provided to the Foundation. Each such report shall identify the per-
sons or entities from which such support is received, and include a specification of any restrictions on the purposes for which such support may be used.

“(C) PUBLICATION.—The Foundation shall make copies of each report submitted under subparagraph (A) available—

“(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge not to exceed the cost of providing such copy; and

“(ii) to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(6) AUDITS AND DISCLOSURE.—The Foundation shall—

“(A) provide for annual audits of the financial condition of the Foundation, including a full list of the Foundation’s donors and any restrictions on the purposes for which gifts to the Foundation may be used; and

“(B) make such audits, and all other records, documents, and other papers of the
Foundation, available to the Secretary and the
Comptroller General of the United States for
examination or audit.

“(7) EVALUATION BY COMPTROLLER GEN-
ERAL.—Not later than five years after the date on
which the Foundation is established, the Comptroller
General of the United States shall submit to the
Committee on Science, Space, and Technology of the
House of Representatives and the Committee on
Commerce, Science, and Transportation of the Sen-
ate the following:

“(A) An evaluation of the following:

“(i) The extent to which the Founda-
tion is achieving the mission of the Foun-
dation.

“(ii) The operation of the Foundation.

“(B) Any recommendations on how the
Foundation may be improved.

“(k) INTEGRITY.—

“(1) IN GENERAL.—To ensure integrity in the
operations of the Foundation, the Board shall de-
develop and enforce procedures relating to standards
of conduct, financial disclosure statements, conflicts
of interest (including recusal and waiver rules), au-
dits, and any other matters determined appropriate
by the Board.

“(2) FINANCIAL CONFLICTS OF INTEREST.—To
mitigate conflicts of interest and risks from malign
foreign influence, any individual who is an officer,
employee, or member of the Board is prohibited
from any participation in deliberations by the Foun-
dation of a matter that would directly or predictably
affect any financial interest of any of the following:

“(A) Such individual.

“(B) A relative of such individual.

“(C) A business organization or other enti-
ty in which such individual or relative of such
individual has an interest, including an organi-
zation or other entity with which such indi-
vidual is negotiating employment.

“(l) INTELLECTUAL PROPERTY.—The Board shall
adopt written standards to govern the ownership and li-
censing of any intellectual property rights developed by the
Foundation or derived from the collaborative efforts of the
Foundation

“(m) FULL FAITH AND CREDIT.—The United States
shall not be liable for any debts, defaults, acts, or omis-
sions of the Foundation. The full faith and credit of the
United States shall not extend to any obligations of the Foundation.

“(n) Support Services.—The Secretary, acting through the Director, may provide facilities, utilities, and support services to the Foundation if it is determined by the Director to be advantageous to the mission of the Institute.

“(o) Nonapplicability.—Chapter 10 of title 5, United States Code, shall not apply to the Foundation.

“(p) Separate Fund Accounts.—The Board shall ensure that amounts received pursuant to the authorization of appropriations under subsection (q) are held in a separate account from any other amounts received by the Foundation.

“(q) Authorization of Appropriations.—Notwithstanding any other provision of law, from amounts authorized to be appropriated for a fiscal year beginning with fiscal year 2025 to the Secretary of Commerce pursuant to section 10211, the Director may transfer not less than $500,000 and not more than $1,250,000 to the Foundation each such fiscal year.

“(r) Definitions.—In this section:

“(1) Board.—The term ‘Board’ means the Board of Directors of the Foundation, established pursuant to subsection (i).
“(2) DIRECTOR.—The term ‘Director’ means
the Director of the National Institute of Standards
and Technology.

“(3) FOUNDATION.—The term ‘Foundation’
means the Foundation for Standards and Metrology
established pursuant to subsection (a).

“(4) INSTITUTE.—The term ‘Institute’ means
the National Institute of Standards and Technology.

“(5) INSTITUTION OF HIGHER EDUCATION.—
The term ‘institution of higher education’ has the
meaning given such term in section 101 of the High-

“(6) NIST ASSOCIATE.—The term ‘NIST asso-
ciate’ means any guest researcher, facility user, vol-
unteer, or other nonemployee of the National Insti-
tute of Standards and Technology who conducts re-
search or otherwise engages in an authorized activity
with National Institute of Standards and Technology
personnel or at a National Institute of Standards
and Technology facility.

“(7) RELATIVE.—The term ‘relative’ has the
meaning given such term in section 13101 of title 5,
United States Code.

“(8) SECRETARY.—The term ‘Secretary’ means
the Secretary of Commerce.
“(9) TECHNICAL STANDARD.—The term ‘technical standard’ has the meaning given such term in section 12(d)(5) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of Public Law 117–167 is amended by inserting after the item relating to section 10235 the following new item:

“Sec. 10236. Foundation for Standards and Metrology.”. 