

HR 4370

PREVAIL Act

Congress: 118 (2023–2025, Ended)

Chamber: House

Policy Area: Commerce

Introduced: Jun 27, 2023

Current Status: Referred to the House Committee on the Judiciary.

Latest Action: Referred to the House Committee on the Judiciary. (Jun 27, 2023)

Official Text: <https://www.congress.gov/bill/118th-congress/house-bill/4370>

Sponsor

Name: Rep. Buck, Ken [R-CO-4]

Party: Republican • **State:** CO • **Chamber:** House

Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Ross, Deborah K. [D-NC-2]	D · NC		Jun 27, 2023
Rep. Moran, Nathaniel [R-TX-1]	R · TX		Nov 7, 2023
Rep. Posey, Bill [R-FL-8]	R · FL		Dec 22, 2023

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Referred To	Jun 27, 2023

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

Bill	Relationship	Last Action
118 S 2220	Identical bill	Dec 2, 2024: Placed on Senate Legislative Calendar under General Orders. Calendar No. 650.

Promoting and Respecting Economically Vital American Innovation Leadership Act or the PREVAIL Act

This bill addresses various issues relating to the U.S. Patent and Trademark Office (PTO), including by imposing additional requirements on administrative patent validity challenges (proceedings to review and potentially cancel issued patents) at the PTO.

The bill modifies provisions relating to inter partes reviews (IPRs) and other administrative patent validity proceedings, including by

- prohibiting an administrative patent judge who participated in deciding whether to institute an IPR (i.e., whether to allow the IPR to proceed based on the initial petition) from also participating in deciding the final outcome of the same IPR;
- prohibiting a person (individual or entity) from petitioning for an IPR against a patent unless the person has been sued for or charged with infringing that patent, whereas currently any person may petition for an IPR;
- prohibiting a person who has challenged a patent's validity in an IPR from raising the same challenges against the patent in other proceedings (e.g., district court) if the IPR has been instituted; and
- raising the burden that the petitioner in an IPR must meet to invalidate a previously-issued patent claim.

This bill also makes institutions of higher education (IHEs) and nonprofit entities that hold patents on behalf of IHEs eligible for reduced patent-related fees, including filing fees. (Currently, employees of IHEs are eligible for reduced fees but not the IHEs themselves.)

The bill also makes fees collected by the PTO available for the PTO's use without further appropriations from Congress, whereas currently some of the collected fees are subject to appropriations.

Actions Timeline

- **Jun 27, 2023:** Introduced in House
- **Jun 27, 2023:** Referred to the House Committee on the Judiciary.