In 1980, the Bayh-Dole Act kickstarted a new era of American innovation by empowering universities, small businesses, and non-profit institutions to patent the federally-funded inventions they created and license them to private companies for further development.

The Economist Technology Quarterly called Bayh-Dole “[p]ossibly the most inspired piece of legislation to be enacted in America over the past half century” — and for good reason. It’s bolstered U.S. economic output by up to $1.9 trillion, supported 6.5 million jobs, helped launch more than 17,000 startup companies, and led to the creation of thousands of new inventions.

The law includes a “march-in” provision that allows the federal government to mandate the relicensing of federally-funded patents under four narrow circumstances, such as if good faith efforts are not being made to develop a product. This provision does not authorize the government to impose price controls on resulting products.

Unfortunately, in December 2023, the Biden administration proposed a new framework that would allow government agencies to disregard that long-standing interpretation of Bayh-Dole and grant march-in petitions on the basis of price as a means to lower drug costs. It would not achieve this goal — but it would stunt research projects, startup development, and entrepreneurship across every U.S. industry.

Below, the Bayh-Dole Coalition debunks some common misconceptions about the government’s new march-in framework.

**Myth:** Using march-in rights as a price control mechanism will lower drug costs.

**Fact:** It will stunt the development of desperately-needed treatments without lowering drug costs.

Nearly 98% of the new drugs and other therapies approved by the FDA between 1985 and 2022 are not march-in eligible.

According to the generic drug industry, “Rather than making a handful of brand medicines more affordable, it is likely that [the march-in] proposal would in fact undermine pre-existing incentives ... for generic and biosimilar manufacturers.”

According to the World Patients Alliance, the proposal would also cause “treatment options [to] become more limited” and “progress against deadly diseases [to] slow” — making future cures “harder, not easier, to achieve.”

**Myth:** Using march-in rights as a price control mechanism won’t impact American innovation.

**Fact:** It will hurt innovative companies, especially small businesses, across every economic sector.

Nearly 75% of university patent licenses are to small businesses and startups.

The proposed framework would impact the commercialization of all government-funded inventions, not just drugs — including semiconductors, clean energy products, and other technologies that the government is trying to promote through laws like the CHIPS and Science Act.

According to the National Venture Capital Association, “NIST’s [march-in] guidance would unavoidably deter VCs from investing in inventions arising from federally funded research.”