

118TH CONGRESS
1ST SESSION

S. 168

To amend the Defense Production Act of 1950 to include the Secretary of Agriculture on the Committee on Foreign Investment in the United States and require review of certain agricultural transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. ROUNDS (for himself, Mr. HOEVEN, Mr. TESTER, Mr. CRAMER, Ms. LUMMIS, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Defense Production Act of 1950 to include the Secretary of Agriculture on the Committee on Foreign Investment in the United States and require review of certain agricultural transactions, 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 “Promoting Agriculture
5 Safeguards and Security Act of 2023” or the “PASS Act
6 of 2023”.

1 **SEC. 2. REVIEW OF AGRICULTURE-RELATED TRANS-**
2 **ACTIONS BY CFIUS.**

3 (a) IN GENERAL.—Section 721 of the Defense Pro-
4 duction Act of 1950 (50 U.S.C. 4565) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (4)—

7 (i) in subparagraph (A)—

8 (I) in clause (i), by striking “;
9 and” and inserting a semicolon;

10 (II) in clause (ii), by striking the
11 period at the end and inserting “;
12 and”; and

13 (III) by adding at the end the
14 following:

15 “(iii) any transaction described in
16 clause (vi) or (vii) of subparagraph (B)
17 proposed or pending on or after the date of
18 the enactment of this clause.”;

19 (ii) in subparagraph (B), by adding at
20 the end the following:

21 “(vi) Any other investment, subject to
22 regulations prescribed under subpara-
23 graphs (D) and (E), by a foreign person in
24 any unaffiliated United States business
25 that is engaged in agriculture or bio-
26 technology related to agriculture.

1 “(vii) Subject to subparagraphs (C)
2 and (E), the purchase or lease by, or a
3 concession to, a foreign person of private
4 real estate that is—

5 “(I) located in the United States;

6 and

7 “(II) used in agriculture.”;

8 (iii) in subparagraph (C)(i), by strik-
9 ing “subparagraph (B)(ii)” and inserting
10 “clause (ii) or (vii) of subparagraph (B)”;

11 (iv) in subparagraph (D)—

12 (I) in clause (i), by striking “sub-
13 paragraph (B)(iii)” and inserting
14 “clauses (iii) and (vi) of subparagraph
15 (B)”;

16 (II) in clause (iii)(I), by striking
17 “subparagraph (B)(iii)” and inserting
18 “clauses (iii) and (vi) of subparagraph
19 (B)”;

20 (III) in clause (iv)(I), by striking
21 “subparagraph (B)(iii)” each place it
22 appears and inserting “clauses (iii)
23 and (vi) of subparagraph (B)”;

24 (IV) in clause (v), by striking
25 “subparagraph (B)(iii)” and inserting

1 “clauses (iii) and (vi) of subparagraph
2 (B)”;

3 (v) in subparagraph (E), by striking
4 “clauses (ii) and (iii)” and inserting
5 “clauses (ii), (iii), (iv), and (vii)”;

6 (B) by adding at the end the following:

7 “(14) AGRICULTURE.—The term ‘agriculture’
8 has the meaning given such term in section 3 of the
9 Fair Labor Standards Act of 1938 (29 U.S.C.
10 203).”;

11 (2) in subsection (k)(2)—

12 (A) by redesignating subparagraphs (H),
13 (I), and (J), as subparagraphs (I), (J), and
14 (K), respectively; and

15 (B) inserting after subparagraph (G) the
16 following new subparagraph:

17 “(H) The Secretary of Agriculture.”; and

18 (3) by adding at the end the following:

19 “(r) PROHIBITION WITH RESPECT TO AGRICUL-
20 TURAL COMPANIES AND REAL ESTATE.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of this section, if the Committee, in con-
23 ducting a review and investigation under this sec-
24 tion, determines that a transaction described in
25 clause (i), (vi), or (vii) of subsection (a)(4)(B) would

1 result in control by a covered foreign person of or
2 investment by a covered foreign person in a United
3 States business engaged in agriculture or private
4 real estate used in agriculture, the President shall
5 prohibit such transaction.

6 “(2) WAIVER.—The President may waive, on a
7 case-by-case basis, the requirement to prohibit a
8 transaction under paragraph (1), not less than 30
9 days after the President determines and reports to
10 the relevant committees of jurisdiction that it is vital
11 to the national security interests of the United
12 States to waive such prohibition.

13 “(3) DEFINED TERMS.—In this subsection:

14 “(A) COVERED FOREIGN PERSON.—The
15 term ‘covered foreign person’ means a person
16 that is—

17 “(i) acting on behalf of or otherwise
18 directed by the government of a prohibited
19 country;

20 “(ii) a citizen of a prohibited country;

21 “(iii) an entity that—

22 “(I) is registered or organized in
23 a prohibited country; or

24 “(II) has a principal place of
25 business in a prohibited country; or

1 “(iv) a subsidiary of an entity de-
2 scribed in clause (iii).

3 “(B) PROHIBITED COUNTRY.—The term
4 ‘prohibited country’ means any of the following:

5 “(i) The People’s Republic of China.

6 “(ii) The Russian Federation.

7 “(iii) The Islamic Republic of Iran.

8 “(iv) The Democratic People’s Repub-
9 lic of Korea.”.

10 (b) REPORT REQUIRED.—Not later than 180 days
11 after the date of the enactment of this Act, and every 180
12 days thereafter, the Secretary of Agriculture shall submit
13 to the Committee on Agriculture of the House of Rep-
14 resentatives and the Committee on Agriculture, Nutrition,
15 and Forestry of the Senate a report on the risks that for-
16 eign purchases of United States businesses engaged in ag-
17 riculture (as such term is defined in section 3 of the Fair
18 Labor Standards Act of 1938 (29 U.S.C. 203)) pose to
19 the agricultural sector of the United States.

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