

117TH CONGRESS
1ST SESSION

S. 3038

To require the review by the Committee on Foreign Investment in the United States of greenfield investments by the People’s Republic of China.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2021

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the review by the Committee on Foreign Investment in the United States of greenfield investments by the People’s Republic of China.

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 “Exposing China’s Belt
5 and Road Investment in America Act of 2021”.

1 **SEC. 2. REVIEW BY COMMITTEE ON FOREIGN INVESTMENT**
2 **IN THE UNITED STATES OF GREENFIELD IN-**
3 **VESTMENTS BY PEOPLE'S REPUBLIC OF**
4 **CHINA.**

5 (a) INCLUSION IN DEFINITION OF COVERED TRANS-
6 ACTION.—Section 721(a)(4) of the Defense Production
7 Act of 1950 (50 U.S.C. 4565(a)(4)) is amended—

8 (1) in subparagraph (A)—

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

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

13 (C) by adding at the end the following:

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

18 (2) in subparagraph (B), by adding at the end
19 the following:

20 “(vi) An investment by a foreign per-
21 son that—

22 “(I) involves—

23 “(aa) the completed or
24 planned purchase or lease by, or
25 a concession to, the foreign per-

1 son of private or public real es-
2 tate in the United States; and

3 “(bb) the establishment of a
4 United States business to operate
5 a factory or other facility on that
6 real estate; and

7 “(II) could result in control, in-
8 cluding through formal or informal
9 arrangements to act in concert, of
10 that United States business by—

11 “(aa) the Government of the
12 People’s Republic of China;

13 “(bb) a person owned or
14 controlled by, or acting on behalf
15 of, that Government;

16 “(cc) an entity in which that
17 Government has, directly or indi-
18 rectly, including through formal
19 or informal arrangements to act
20 in concert, a 5 percent or greater
21 interest;

22 “(dd) an entity in which
23 that Government has, directly or
24 indirectly, the right or power to
25 appoint, or approve the appoint-

1 ment of, any members of the
2 board of directors, board of su-
3 pervisors, or an equivalent gov-
4 erning body (including external
5 directors and other individuals
6 who perform the duties usually
7 associated with such titles) or of-
8 ficers (including the president,
9 senior vice president, executive
10 vice president, and other individ-
11 uals who perform duties normally
12 associated with such titles) of
13 any other entity that held, di-
14 rectly or indirectly, including
15 through formal or informal ar-
16 rangements to act in concert, a 5
17 percent or greater interest in the
18 entity in the preceding 3 years;
19 or

20 “(ee) an entity in which any
21 members or officers described in
22 item (dd) of any other entity
23 holding, directly or indirectly, in-
24 cluding through formal or infor-
25 mal arrangements to act in con-

1 cert, a 5 percent or greater inter-
2 est in the entity are members of
3 the Chinese Communist Party or
4 have been members of the Chi-
5 nese Communist Party in the
6 preceding 3 years.”.

7 (b) DEFINITION OF GOVERNMENT OF PEOPLE’S RE-
8 PUBLIC OF CHINA.—Section 721(a) of the Defense Pro-
9 duction Act of 1950 (50 U.S.C. 4565(a)) is amended—

10 (1) by redesignating paragraphs (8) through
11 (13) as paragraphs (9) through (14), respectively;
12 and

13 (2) by inserting after paragraph (7) the fol-
14 lowing:

15 “(7) GOVERNMENT OF PEOPLE’S REPUBLIC OF
16 CHINA.—The term ‘Government of the People’s Re-
17 public of China’ includes the national and sub-
18 national governments within the People’s Republic of
19 China, including any departments, agencies, or in-
20 strumentalities of such governments.”.

21 (c) MANDATORY FILING OF DECLARATIONS.—Sec-
22 tion 721(b)(1)(C)(v)(IV)(bb) of the Defense Production
23 Act of 1950 (50 U.S.C. 4565(b)(1)(C)(v)(IV)(bb)) is
24 amended by adding at the end the following:

1 “(DD) GREENFIELD
2 INVESTMENTS BY PEOPLE’S
3 REPUBLIC OF CHINA.—The
4 parties to a covered trans-
5 action described in sub-
6 section (a)(4)(B)(vi) shall
7 submit a declaration de-
8 scribed in subclause (I) with
9 respect to the transaction.”.

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