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

AUGUST 6, 2022

Mr. Rounds 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Promoting Agriculture Safeguards and Security Act of 2022” or the “PASS Act of 2022”.

SEC. 2. REVIEW OF AGRICULTURE-RELATED TRANSACTIONS BY CFIUS.

(a) In General.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ‘‘; and’’ and inserting a semicolon;

(II) in clause (ii), by striking the period at the end and inserting ‘‘; and’’; and

(III) by adding at the end the following:

‘‘(iii) any transaction described in clause (vi) or (vii) of subparagraph (B) proposed or pending on or after the date of the enactment of this clause.’’;

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

‘‘(vi) Any other investment, subject to regulations prescribed under subparagraphs (D) and (E), by a foreign person in any unaffiliated United States business that is engaged in agriculture or biotechnology related to agriculture.’’
“(vii) Subject to subparagraphs (C) and (E), the purchase or lease by, or a concession to, a foreign person of private real estate that is—

“(I) located in the United States; and

“(II) used in agriculture.”;

(iii) in subparagraph (C)(i), by striking “subparagraph (B)(ii)” and inserting “clause (ii) or (vii) of subparagraph (B)”;

(iv) in subparagraph (D)—

(I) in clause (i), by striking “subparagraph (B)(iii)” and inserting “clauses (iii) and (vi) of subparagraph (B)”;

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

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

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

[...]

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

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

(B) by adding at the end the following:

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

(2) in subsection (k)(2)—

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

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

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

(3) by adding at the end the following:

“(r) PROHIBITION WITH RESPECT TO AGRICULTURAL COMPANIES AND REAL ESTATE.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, if the Committee, in conducting a review and investigation under this section, determines that a transaction described in clause (i), (vi), or (vii) of subsection (a)(4)(B) would
result in control by a covered foreign person of or investment by a covered foreign person in a United States business engaged in agriculture or private real estate used in agriculture, the President shall prohibit such transaction.

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

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

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

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

“(ii) a citizen of a prohibited country;

“(iii) an entity that—

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

“(II) has a principal place of business in a prohibited country; or
“(iv) a subsidiary of an entity described in clause (iii).

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


“(ii) The Russian Federation.

“(iii) The Islamic Republic of Iran.

“(iv) The Democratic People’s Republic of Korea.”.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the risks that foreign purchases of United States businesses engaged in agriculture (as such term is defined in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203)) pose to the agricultural sector of the United States.