

## Calendar No. 652

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3665****[Report No. 111–353]**

To promote the strengthening of the private sector in Pakistan.

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## IN THE SENATE OF THE UNITED STATES

JULY 29, 2010

Mr. LUGAR (for himself, Mr. KERRY, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

NOVEMBER 19, 2010

Reported by Mr. KERRY, without amendment

**A BILL**

To promote the strengthening of the private sector in  
Pakistan.

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 “Pakistani-American  
5       Enterprise Fund Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Pakistan currently enjoys a strong private  
4 sector and entrepreneurial spirit. The country is  
5 working to consolidate macroeconomic stability and  
6 initiate structural reforms with support from the  
7 International Monetary Fund's (IMF) Stand-By  
8 Agreement. A more stable economy in Pakistan will  
9 help support Pakistan's robust private sector. Enter-  
10 prise Funds established in partnership with United  
11 States partners like Poland, Hungary, Albania, Rus-  
12 sia, and other European countries have proven bene-  
13 ficial to their economies. Creating a similar fund in  
14 close partnership with the people of Pakistan could  
15 help sustain and expand their reform efforts as well  
16 as empower entrepreneurs in Pakistan with the re-  
17 sources required to create desperately needed em-  
18 ployment opportunities.

19 (2) A 2009 assessment released by the IMF  
20 noted, "Economic growth in Pakistan is starting to  
21 recover; large-scale manufacturing output has start-  
22 ed to increase, the improvement in the global econ-  
23 omy has helped manufacturing exports, and the pri-  
24 vate sector credit growth has picked up somewhat as  
25 businesses rebuild their working capital. Looking  
26 ahead, a resumption of higher growth is needed to

1 raise living standards and will require improvements  
2 in the business climate to stimulate higher invest-  
3 ment by local and foreign investors.”

4 (3) Pakistan has seen a dramatic fall in foreign  
5 direct investment (FDI) in recent years. According  
6 to Pakistan’s Board of Investment (BOI), foreign di-  
7 rect investment dropped by 40.7 percent from the  
8 July 2008–June 2009 time period to the July 2009–  
9 June 2010 time period. Pakistan secured  
10 \$5,139,600,000 in FDI in 2006–2007 and  
11 \$5,152,800,000 in 2007–2008, but the amount  
12 dropped to \$2,205,000,000 in 2009–2010.

13 (4) According to the Asian Development Bank’s  
14 2008 report on Pakistan’s private sector, Pakistan’s  
15 private sector is by far the biggest contributor to  
16 GDP and is the biggest employer in the country. Ac-  
17 cording to Pakistan’s Small and Medium Sized De-  
18 velopment Authority (SMEDA), small and medium  
19 sized enterprises (SMEs) constitute nearly 90 per-  
20 cent of all enterprises in Pakistan, employ 80 per-  
21 cent of the non-agricultural labor force, and con-  
22 stitute an approximately 40 percent share of annual  
23 GDP. Pakistan’s SMEs are particularly constrained  
24 by lack of access to financial and other resources.  
25 Accelerating the growth of existing SMEs and pro-

viding innovative entrepreneurs with resources to set up new ventures has the potential to significantly contribute to stability through job creation and support overall economic success in Pakistan.

(5) The shortage of risk capital in Pakistan stems from the effects of the global economic crisis but has been greatly exacerbated by both political and security challenges plaguing the country. Establishing an enterprise fund could help reinforce financial institutions within the country, provide debt and equity investment for commercially viable SMEs, provide debt and equity investment in private sector entities and initiatives in the energy sector, and make the investment environment more attractive to domestic and international investors.

(6) Creation of an enterprise fund could promote the growth of the private sector in Pakistan while simultaneously incentivize companies to operate within the formal economy. Estimates by the IMF and World Bank suggest that the informal or underground economy in Pakistan far exceeds the fiscal activity government institutions are able to systematically measure. Any company or business supported by the enterprise fund would be required to operate within specific legal and accounting

1 standards and comply with applicable tax codes. In  
2 a country with extremely low levels of tax collec-  
3 tion—less than 2 percent of the population is be-  
4 lieved to pay personal taxes—leadership by the pri-  
5 vate sector could set an invaluable example within  
6 the country.

7 (7) To help foster and support the fledgling pri-  
8 vate sector after the fall of the Berlin Wall, Con-  
9 gress, through enactment of the Support for East  
10 European Democracy (SEED) Act of 1989 (22  
11 U.S.C. 5401 et seq.) and the FREEDOM Support  
12 Act (22 U.S.C. 5801 et seq.), authorized nearly  
13 \$1,200,000,000 for the United States Agency for  
14 International Development (USAID) to establish 10  
15 new investment funds, collectively known as the  
16 “Enterprise Funds”, throughout Central and East-  
17 ern Europe and the former Soviet Union. These  
18 funds channeled funding into over 500 enterprises in  
19 19 countries, leveraged an additional  
20 \$5,000,000,000 in private investment capital from  
21 outside the United States Government, provided sub-  
22 stantial development capital where supply was lim-  
23 ited, created or sustained over 260,000 jobs through  
24 investment and development activities, funded  
25 \$74,000,000 in technical assistance to strengthen

1 the private sector, and is expected to recoup 137  
2 percent of the original USAID funding.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are—

5 (1) to promote the private sector in Pakistan,  
6 while considering the development impact of invest-  
7 ments and profitability of those investments, par-  
8 ticularly in small- and medium-sized enterprises, the  
9 energy and electricity sector, and joint ventures with  
10 participants from the United States and Pakistan;

11 (2) to promote policies and practices conducive  
12 to strengthening the private sector in Pakistan  
13 through measures including loans, microloans, equity  
14 investments, insurance, guarantees, grants, feasi-  
15 bility studies, technical assistance, training for busi-  
16 nesses receiving investment capital, and other meas-  
17 ures;

18 (3) to promote good corporate governance and  
19 transparency in Pakistan, foster competition, cata-  
20 lyze productivity improvements in existing busi-  
21 nesses, and strengthen local capital markets;

22 (4) to promote security through job creation in  
23 the private sector in Pakistan and to further the cre-  
24 ation of a middle class in Pakistan; and

1           (5) to promote private sector adherence to tax  
2       codes in Pakistan and, where appropriate, foster im-  
3       provements in the tax code and regulatory environ-  
4       ment in Pakistan in order to support economic de-  
5       velopment.

6   **SEC. 4. PAKISTANI-AMERICAN ENTERPRISE FUND.**

7       (a) DESIGNATION.—The President is authorized to  
8       designate a private, nonprofit organization based in Paki-  
9       stan (to be known as the “Pakistani-American Enterprise  
10      Fund”) to receive funds and support made available under  
11      this Act after determining that such organization has been  
12      established for the purposes specified in section 3. The  
13      President should make such designation only after con-  
14      sultation with the leadership of each House of Congress.

15      (b) BOARD OF DIRECTORS.—

16           (1) APPOINTMENT.—The Pakistani-American  
17      Enterprise Fund shall be governed by a Board of  
18      Directors, which shall be comprised of 4 private citi-  
19      zens of the United States and 3 private citizens of  
20      Pakistan, appointed by the President of the United  
21      States in consultation with the Government of Paki-  
22      stan.

23           (2) QUALIFICATIONS.—Members of the Board  
24      of Directors shall be selected from among people  
25      who have had successful business careers and dem-

onstrated experience and expertise in international and particularly emerging markets, such as private equity or venture capital investment, banking, finance, strategic business consulting, or entrepreneurial business creation, and backgrounds in priority business sectors of the Fund, such as the energy sector.

(3) ADDITIONAL USAID NON-VOTING BOARD MEMBER.—The President shall appoint one official or employee of USAID as an additional non-voting member of the Board.

(4) ADDITIONAL NON-GOVERNMENT NON-VOTING BOARD MEMBERS.—

(A) AUTHORITY TO APPOINT.—Upon the recommendation of the Board of Directors, the President may appoint up to 2 additional non-voting members to the Board in addition to the members specified in paragraphs (1) and (3), of which not more than one may be a non-citizen of the United States.

(B) NGO COMMUNITY.—One of the additional non-voting Board members shall represent the nongovernmental organization community, with significant prior experience in de-



1           velopment and an understanding of develop-  
2           ment policy priorities for Pakistan.

3           (C) TECHNICAL EXPERTISE.—One of the  
4           additional non-voting Board members shall have  
5           extensive demonstrated industry, sector, or  
6           technical experience and expertise in a priority  
7           investment sector for the Fund.

8           (c) GRANTS.—

9           (1) IN GENERAL.—The President may use  
10          funds appropriated pursuant to section 102 of the  
11          Enhanced Partnership with Pakistan Act of 2009  
12          (22 U.S.C. 8412) to carry out the purposes specified  
13          in section 3 through the Pakistani-American Enter-  
14          prise Fund and to cover administrative expenses of  
15          the Fund.

16          (2) ELIGIBLE PROGRAMS AND PROJECTS.—  
17          Grants awarded under this section may only be used  
18          for programs and projects that support the purposes  
19          set forth in section 3.

20          (3) COMPLIANCE REQUIREMENTS.—

21          (A) IN GENERAL.—Grants may not be  
22          awarded to the Pakistani-American Enterprise  
23          Fund under this section unless the Fund agrees  
24          to comply with the requirements under this sec-  
25          tion.

1           (B) GRANT AGREEMENT.—The grant  
2           agreement between the United States Agency  
3           for International Development and the Paki-  
4           stani-American Enterprise Fund shall state  
5           that the Fund shall liquidate its assets and dis-  
6           solve not later than December 31, 2020, unless  
7           the Administrator of the United States Agency  
8           for International Development determines, after  
9           consultation with the appropriate congressional  
10          committees, that the Fund should be extended.

11          (C) PREVENTION OF MONEY LAUNDERING  
12          AND TERRORIST FINANCING.—The grant agree-  
13          ment between the United States Agency for  
14          International Development and the Pakistani-  
15          American Enterprise Fund shall state that the  
16          Fund shall comply with procedures specified by  
17          the Secretary of State to ensure that grant  
18          funds are not provided by the Fund to or  
19          through any individual, private or government  
20          entity, or educational institution that advocates,  
21          plans, sponsors, engages in, or has engaged in,  
22          money laundering or terrorist activity or, with  
23          respect to a private entity or educational insti-  
24          tution, that has as a principal officer of the en-  
25          tity's governing board or governing board of

1 trustees any individual that has been deter-  
2 mined to be involved in or advocating money  
3 laundering or terrorist activity or determined to  
4 be a member of a designated foreign terrorist  
5 organization.

6 (D) DISPOSITION OF ASSETS.—The assets  
7 of the Pakistani-American Enterprise Fund at  
8 the time the Fund is dissolved shall be returned  
9 to the General Fund of the United States  
10 Treasury and used to reduce the debt of the  
11 United States, unless otherwise specified by the  
12 appropriate congressional committees.

13 (d) NOTIFICATION.—

14 (1) IN GENERAL.—Not later than 15 days be-  
15 fore designating an organization to operate as the  
16 Pakistani-American Enterprise Fund pursuant to  
17 subsection (a), the President shall provide the infor-  
18 mation described in paragraph (2) to the Chairman  
19 and Ranking Member of the appropriate congres-  
20 sional committees.

21 (2) INFORMATION.—The information described  
22 in this paragraph is—

23 (A) the identity of the organization to be  
24 designated to operate as the Pakistani-Amer-

1           ican Enterprise Fund pursuant to subsection  
2           (a);

3                   (B) the names and qualifications of the in-  
4           dividuals who will comprise the initial Board of  
5           Directors; and

6                   (C) the procedures referred to in sub-  
7           section (c)(3)(C) that will apply to the Paki-  
8           stani-American Enterprise Fund for purposes  
9           of curtailing money-laundering and terrorist fi-  
10          nancing activities.

11       (e) PUBLIC DISCLOSURE.—Not later than one year  
12 after the entry into force of the initial grant agreement  
13 under this section, and annually thereafter, the Fund shall  
14 prepare and make available to the public on an Internet  
15 website administered by the Fund a report on the Fund’s  
16 activities during the previous year, including—

17           (1) a description of each investment or project  
18       supported by the Fund, including each type of as-  
19       sistance provided in accordance with section 3(2);

20           (2) the amounts invested by the Fund in each  
21       company or project;

22           (3) the amounts of additional private invest-  
23       ments made in each company or project; and

1           (4) the amounts of any profits or losses realized  
2       by the Fund in connection with each such company  
3       or project.

4   **SEC. 5. REPORTS.**

5       (a) ADMINISTRATIVE EXPENSES.—Not later than  
6   one year after the date of the enactment of this Act, and  
7   annually thereafter until the Fund is dissolved, the Fund  
8   shall submit to the appropriate congressional committees  
9   a report detailing the administrative expenses of the Fund.

10      (b) GAO REPORT.—Not later than 3 years after the  
11   date of the enactment of this Act, and every 3 years there-  
12   after until the Fund is dissolved, the Comptroller General  
13   of the United States shall submit to the appropriate con-  
14   gressional committees a report assessing the activities of  
15   the Fund in achieving the stated goals of promoting pri-  
16   vate sector investment and employment in Pakistan and  
17   identifying those institutional or regulatory constraints  
18   that inhibit a more effective application of Fund resources.

19   **SEC. 6. OPERATION PROVISIONS.**

20      (a) APPLICABLE PROVISIONS.—Subsections (d)(5),  
21   (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201  
22   of the Support for East European Democracy (SEED)  
23   Act of 1989 (22 U.S.C. 5421) shall apply with respect  
24   to the Pakistani-American Enterprise Fund in the same

1 manner as such provisions apply to Enterprise Funds des-  
2 ignated pursuant to subsection (d) of such section.

3 (b) REINVESTMENT.—Returns on investments of the  
4 Pakistani-American Enterprise Fund and other payments  
5 to the Fund may be reinvested in projects carried out by  
6 the Fund without further appropriation by Congress.

7 **SEC. 7. BEST PRACTICES AND PROCEDURES.**

8 To the maximum extent practicable, the Board of Di-  
9 rectors of the Pakistani-American Enterprise Fund should  
10 adopt the best practices and procedures used by Enter-  
11 prise Funds, including those for which funding has been  
12 made available pursuant to section 201 of the Support for  
13 East European Democracy (SEED) Act of 1989 (22  
14 U.S.C. 5421).

15 **SEC. 8. EXPERIENCE OF OTHER ENTERPRISE FUNDS.**

16 In implementing this Act, the President shall ensure  
17 that the Articles of Incorporation of the Pakistani-Amer-  
18 ican Enterprise Fund (including provisions specifying the  
19 responsibilities of the Board of Directors of the Fund),  
20 the terms of United States Government grant agreements  
21 with the Fund, and United States Government oversight  
22 of the Fund are, to the maximum extent practicable, con-  
23 sistent with the Articles of Incorporation of, the terms of  
24 grant agreements with, and the oversight of the Enter-  
25 prise Funds established pursuant to section 201 of the

1 Support for East European Democracy (SEED) Act of  
2 1989 (22 U.S.C. 5421) and comparable provisions of law.

3 **SEC. 9. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**  
4 **FINED.**

5 In this Act, the term “appropriate congressional com-  
6 mittees” means—

7 (1) the Committee on Foreign Relations of the  
8 Senate;

9 (2) the Committee on Appropriations of the  
10 Senate;

11 (3) the Committee on Foreign Affairs of the  
12 House of Representatives; and

13 (4) the Committee on Appropriations of the  
14 House of Representatives.

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11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 3665**

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**A BILL**

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