

111TH CONGRESS
2^D SESSION

S. _____

To promote the strengthening of the private sector in Pakistan.

IN THE SENATE OF THE UNITED STATES

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

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”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Pakistan currently enjoys a strong private
9 sector and entrepreneurial spirit. The country is
10 working to consolidate macroeconomic stability and
11 initiate structural reforms with support from the

1 International Monetary Fund's (IMF) Stand-By
2 Agreement. A more stable economy in Pakistan will
3 help support Pakistan's robust private sector. Enter-
4 prise Funds established in partnership with United
5 States partners like Poland, Hungary, Albania, Rus-
6 sia, and other European countries have proven bene-
7 ficial to their economies. Creating a similar fund in
8 close partnership with the people of Pakistan could
9 help sustain and expand their reform efforts as well
10 as empower entrepreneurs in Pakistan with the re-
11 sources required to create desperately needed em-
12 ployment opportunities.

13 (2) A 2009 assessment released by the IMF
14 noted, "Economic growth in Pakistan is starting to
15 recover; large-scale manufacturing output has start-
16 ed to increase, the improvement in the global econ-
17 omy has helped manufacturing exports, and the pri-
18 vate sector credit growth has picked up somewhat as
19 businesses rebuild their working capital. Looking
20 ahead, a resumption of higher growth is needed to
21 raise living standards and will require improvements
22 in the business climate to stimulate higher invest-
23 ment by local and foreign investors."

24 (3) Pakistan has seen a dramatic fall in foreign
25 direct investment (FDI) in recent years. According

1 to Pakistan's Board of Investment (BOI), foreign di-
2 rect investment dropped by 40.7 percent from the
3 July 2008-June 2009 time period to the July 2009-
4 June 2010 time period. Pakistan secured
5 \$5,139,600,000 in FDI in 2006-2007 and
6 \$5,152,800,000 in 2007-2008, but the amount
7 dropped to \$2,205,000,000 in 2009-2010.

8 (4) According to the Asian Development Bank's
9 2008 report on Pakistan's private sector, Pakistan's
10 private sector is by far the biggest contributor to
11 GDP and is the biggest employer in the country. Ac-
12 cording to Pakistan's Small and Medium Sized De-
13 velopment Authority (SMEDA), small and medium
14 sized enterprises (SMEs) constitute nearly 90 per-
15 cent of all enterprises in Pakistan, employ 80 per-
16 cent of the non-agricultural labor force, and con-
17 stitute an approximately 40 percent share of annual
18 GDP. Pakistan's SMEs are particularly constrained
19 by lack of access to financial and other resources.
20 Accelerating the growth of existing SMEs and pro-
21 viding innovative entrepreneurs with resources to set
22 up new ventures has the potential to significantly
23 contribute to stability through job creation and sup-
24 port overall economic success in Pakistan.

1 (5) The shortage of risk capital in Pakistan
2 stems from the effects of the global economic crisis
3 but has been greatly exacerbated by both political
4 and security challenges plaguing the country. Estab-
5 lishing an enterprise fund could help reinforce finan-
6 cial institutions within the country, provide debt and
7 equity investment for commercially viable SMEs,
8 provide debt and equity investment in private sector
9 entities and initiatives in the energy sector, and
10 make the investment environment more attractive to
11 domestic and international investors.

12 (6) Creation of an enterprise fund could pro-
13 mote the growth of the private sector in Pakistan
14 while simultaneously incentivize companies to oper-
15 ate within the formal economy. Estimates by the
16 IMF and World Bank suggest that the informal or
17 underground economy in Pakistan far exceeds the
18 fiscal activity government institutions are able to
19 systematically measure. Any company or business
20 supported by the enterprise fund would be required
21 to operate within specific legal and accounting
22 standards and comply with applicable tax codes. In
23 a country with extremely low levels of tax collec-
24 tion—less than 2 percent of the population is be-
25 lieved to pay personal taxes—leadership by the pri-

1 vate sector could set an invaluable example within
2 the country.

3 (7) To help foster and support the fledgling pri-
4 vate sector after the fall of the Berlin Wall, Con-
5 gress, through enactment of the Support for East
6 European Democracy (SEED) Act of 1989 (22
7 U.S.C. 5401 et seq.) and the FREEDOM Support
8 Act (22 U.S.C. 5801 et seq.), authorized nearly
9 \$1,200,000,000 for the United States Agency for
10 International Development (USAID) to establish 10
11 new investment funds, collectively known as the
12 “Enterprise Funds”, throughout Central and East-
13 ern Europe and the former Soviet Union. These
14 funds channeled funding into over 500 enterprises in
15 19 countries, leveraged an additional
16 \$5,000,000,000 in private investment capital from
17 outside the United States Government, provided sub-
18 stantial development capital where supply was lim-
19 ited, created or sustained over 260,000 jobs through
20 investment and development activities, funded
21 \$74,000,000 in technical assistance to strengthen
22 the private sector, and is expected to recoup 137
23 percent of the original USAID funding.

24 **SEC. 3. PURPOSES.**

25 The purposes of this Act are—

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

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

14 (3) to promote good corporate governance and
15 transparency in Pakistan, foster competition, cata-
16 lyze productivity improvements in existing busi-
17 nesses, and strengthen local capital markets;

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

21 (5) to promote private sector adherence to tax
22 codes in Pakistan and, where appropriate, foster im-
23 provements in the tax code and regulatory environ-
24 ment in Pakistan in order to support economic de-
25 velopment.

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

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

10 (b) BOARD OF DIRECTORS.—

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

18 (2) QUALIFICATIONS.—Members of the Board
19 of Directors shall be selected from among people
20 who have had successful business careers and dem-
21 onstrated experience and expertise in international
22 and particularly emerging markets, such as private
23 equity or venture capital investment, banking, fi-
24 nance, strategic business consulting, or entrepre-
25 neurial business creation, and backgrounds in pri-

1 ority business sectors of the Fund, such as the en-
2 ergy sector.

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

7 (4) ADDITIONAL NON-GOVERNMENT NON-VOT-
8 ING BOARD MEMBERS.—

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

16 (B) NGO COMMUNITY.—One of the addi-
17 tional non-voting Board members shall rep-
18 resent the nongovernmental organization com-
19 munity, with significant prior experience in de-
20 velopment and an understanding of develop-
21 ment policy priorities for Pakistan.

22 (C) TECHNICAL EXPERTISE.—One of the
23 additional non-voting Board members shall have
24 extensive demonstrated industry, sector, or

1 technical experience and expertise in a priority
2 investment sector for the Fund.

3 (c) GRANTS.—

4 (1) IN GENERAL.—The President may use
5 funds appropriated pursuant to section 102 of the
6 Enhanced Partnership with Pakistan Act of 2009
7 (22 U.S.C. 8412) to carry out the purposes specified
8 in section 3 through the Pakistani-American Enter-
9 prise Fund and to cover administrative expenses of
10 the Fund.

11 (2) ELIGIBLE PROGRAMS AND PROJECTS.—

12 Grants awarded under this section may only be used
13 for programs and projects that support the purposes
14 set forth in section 3.

15 (3) COMPLIANCE REQUIREMENTS.—

16 (A) IN GENERAL.—Grants may not be
17 awarded to the Pakistani-American Enterprise
18 Fund under this section unless the Fund agrees
19 to comply with the requirements under this sec-
20 tion.

21 (B) GRANT AGREEMENT.—The grant
22 agreement between the United States Agency
23 for International Development and the Paki-
24 stani-American Enterprise Fund shall state
25 that the Fund shall liquidate its assets and dis-

1 solve not later than December 31, 2020, unless
2 the Administrator of the United States Agency
3 for International Development determines, after
4 consultation with the appropriate congressional
5 committees, that the Fund should be extended.

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

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

8 (d) NOTIFICATION.—

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

16 (2) INFORMATION.—The information described
17 in this paragraph is—

18 (A) the identity of the organization to be
19 designated to operate as the Pakistani-Amer-
20 ican Enterprise Fund pursuant to subsection
21 (a);

22 (B) the names and qualifications of the in-
23 dividuals who will comprise the initial Board of
24 Directors; and

1 (C) the procedures referred to in sub-
2 section (c)(3)(C) that will apply to the Paki-
3 stani-American Enterprise Fund for purposes
4 of curtailing money-laundering and terrorist fi-
5 nancing activities.

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

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

15 (2) the amounts invested by the Fund in each
16 company or project;

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

19 (4) the amounts of any profits or losses realized
20 by the Fund in connection with each such company
21 or project.

22 **SEC. 5. REPORTS.**

23 (a) ADMINISTRATIVE EXPENSES.—Not later than
24 one year after the date of the enactment of this Act, and
25 annually thereafter until the Fund is dissolved, the Fund

1 shall submit to the appropriate congressional committees
2 a report detailing the administrative expenses of the Fund.

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

12 **SEC. 6. OPERATION PROVISIONS.**

13 (a) APPLICABLE PROVISIONS.—Subsections (d)(5),
14 (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201
15 of the Support for East European Democracy (SEED)
16 Act of 1989 (22 U.S.C. 5421) shall apply with respect
17 to the Pakistani-American Enterprise Fund in the same
18 manner as such provisions apply to Enterprise Funds des-
19 ignated pursuant to subsection (d) of such section.

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

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

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

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

10 In implementing this Act, the President shall ensure
11 that the Articles of Incorporation of the Pakistani-Amer-
12 ican Enterprise Fund (including provisions specifying the
13 responsibilities of the Board of Directors of the Fund),
14 the terms of United States Government grant agreements
15 with the Fund, and United States Government oversight
16 of the Fund are, to the maximum extent practicable, con-
17 sistent with the Articles of Incorporation of, the terms of
18 grant agreements with, and the oversight of the Enter-
19 prise Funds established pursuant to section 201 of the
20 Support for East European Democracy (SEED) Act of
21 1989 (22 U.S.C. 5421) and comparable provisions of law.

22 **SEC. 9. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**
23 **FINED.**

24 In this Act, the term “appropriate congressional com-
25 mittees” means—

1 (1) the Committee on Foreign Relations of the
2 Senate;

3 (2) the Committee on Appropriations of the
4 Senate;

5 (3) the Committee on Foreign Affairs of the
6 House of Representatives; and

7 (4) the Committee on Appropriations of the
8 House of Representatives.