

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2374

To amend the Homeland Security Act of 2002 to limit foreign control of investments in certain United States critical infrastructure.

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IN THE SENATE OF THE UNITED STATES

MARCH 6, 2006

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

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## A BILL

To amend the Homeland Security Act of 2002 to limit foreign control of investments in certain United States critical infrastructure.

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 “Foreign Investment  
5 Transparency and Security Act of 2006”.

1 **SEC. 2. LIMITS ON FOREIGN CONTROL OF INVESTMENTS IN**  
2 **CERTAIN UNITED STATES CRITICAL INFRA-**  
3 **STRUCTURE.**

4 (a) IN GENERAL.—Title II of the Homeland Security  
5 Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding  
6 at the end the following:

7 **“Subtitle E—Limits on Foreign**  
8 **Control of Investments in Cer-**  
9 **tain United States Critical In-**  
10 **frastructure**

11 **“SEC. 241. DEFINITIONS.**

12 “As used in this subtitle—

13 “(1) the term ‘foreign government controlled  
14 entity’ means any entity in which a foreign govern-  
15 ment owns a majority interest, or otherwise controls  
16 or manages the entity; and

17 “(2) the term ‘general business corporation’  
18 means any entity that qualifies for treatment for  
19 Federal taxation purposes under subchapter C or  
20 subchapter S of the Internal Revenue Code of 1986,  
21 established or organized under the laws of any  
22 State.

23 **“SEC. 242. LIMITATION ON FOREIGN INVESTMENTS.**

24 “(a) IN GENERAL.—A foreign government controlled  
25 entity may acquire, own, or otherwise control or manage  
26 any critical infrastructure of the United States only

1 through the establishment or operation of a foreign owned  
2 general business corporation that meets the requirements  
3 of subsection (b).

4 “(b) REQUIREMENTS.—For purposes of this section,  
5 a general business corporation shall have—

6 “(1) a board of directors, the majority of which  
7 is comprised of United States citizens; and

8 “(2) a chief security officer who is a United  
9 States citizen, responsible for safety and security  
10 issues related to the critical infrastructure.

11 “(c) RULE OF CONSTRUCTION.—Nothing in this sub-  
12 title may be construed to restrict or otherwise alter the  
13 authority of the President or the Committee on Foreign  
14 Investment in the United States (or any successor thereto)  
15 as the designee of the President, under section 721 of the  
16 Defense Production Act of 1950.

17 **“SEC. 243. REGULATIONS REQUIRED.**

18 “Not later than 6 months after the date of enactment  
19 of this subtitle, the Secretary of the Treasury, in coordina-  
20 tion with the Secretary, shall promulgate final regulations  
21 to carry out this subtitle.

22 **“SEC. 244. EFFECTIVE DATE.**

23 “(a) IN GENERAL.—Section 242 shall apply begin-  
24 ning on the date that is 6 months after the date of enact-  
25 ment of this subtitle.

1       “(b) EXISTING ENTITIES.—A foreign government  
2 controlled entity that owns or otherwise controls or man-  
3 ages any critical infrastructure of the United States on  
4 the effective date of this subtitle shall comply with the re-  
5 quirements of this subtitle not later than 180 days after  
6 that effective date.”.

7       (b) CONFORMING AMENDMENT.—The table of con-  
8 tents under section 1(b) of the Homeland Security Act of  
9 2002 (6 U.S.C. 101) is amended by inserting after the  
10 item relating to section 237 the following:

“Subtitle E—Limits on Foreign Control of Investments in Certain United  
States Critical Infrastructure

“Sec. 241. Definitions.

“Sec. 242. Limitation on foreign investments.

“Sec. 243. Regulations required.

“Sec. 244. Effective date.”.

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