

109TH CONGRESS
1ST SESSION

S. 1797

To provide for Congressional authority with respect to certain acquisitions, mergers, and takeovers under the Defense Production Act of 1950.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2005

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

A BILL

To provide for Congressional authority with respect to certain acquisitions, mergers, and takeovers under the Defense Production Act of 1950.

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 Security Act of 2005”.

6 **SEC. 2. CONGRESSIONAL AUTHORITY UNDER DEFENSE**
7 **PRODUCTION ACT.**

8 Section 721 of the Defense Production Act of 1950
9 (50 U.S.C. App. 2170) is amended—

10 (1) in subsection (a)—

1 (A) by striking “30” and inserting “60”;
2 and

3 (B) by adding at the end the following:
4 “The findings and recommendations of any
5 such investigation shall be sent immediately to
6 the President and to the Committee on Bank-
7 ing, Housing, and Urban Affairs of the Senate
8 and the Committee on Financial Services of the
9 House of Representatives for review.”;

10 (2) in subsection (b)—

11 (A) by inserting before the first period “,
12 or in such instance at the request of the chair-
13 man and ranking member of the Committee on
14 Banking, Housing, and Urban Affairs of the
15 Senate or the Committee on Financial Services
16 of the House of Representatives”;

17 (B) in paragraph (2), by inserting before
18 the period “, and the findings and recommenda-
19 tions of such investigation shall be sent imme-
20 diately to the President and to the Committee
21 on Banking, Housing, and Urban Affairs of the
22 Senate and the Committee on Financial Serv-
23 ices of the House of Representatives for re-
24 view”; and

25 (C) by striking “30” and inserting “60”;

1 (3) in subsection (f)—

2 (A) by striking “designee may” and insert-
3 ing “designee shall”;

4 (B) in paragraph (4), by striking “and” at
5 the end;

6 (C) in paragraph (5), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (D) by adding at the end the following:

9 “(6) the long-term projections of United States
10 requirements for sources of energy and other critical
11 resources and materials and for economic security.”;

12 (4) in subsection (g)—

13 (A) by striking “The President” and in-
14 serting the following:

15 “(1) IN GENERAL.—The President”; and

16 (B) by adding at the end the following:

17 “(2) QUARTERLY SUBMISSIONS.—The Secretary
18 of the Treasury shall transmit to the Committee on
19 Banking, Housing, and Urban Affairs of the Senate
20 and the Committee on Financial Services of the
21 House of Representatives on a quarterly basis, a de-
22 tailed summary and analysis of each merger, acqui-
23 sition, or takeover that is being reviewed, was re-
24 viewed during the preceding 90-day period, or is
25 likely to be reviewed in the coming quarter by the

1 President or the President’s designee under sub-
2 section (a) or (b). Each such summary and analysis
3 shall be submitted in unclassified form, with classi-
4 fied annexes as the Secretary determines are re-
5 quired to protect company proprietary information
6 and other sensitive information. Each such summary
7 and analysis shall include an appendix detailing dis-
8 senting views.”; and

9 (5) by adding at the end the following new sub-
10 sections:

11 “(1) CONGRESSIONAL AUTHORITY.—

12 “(1) IN GENERAL.—If the President does not
13 suspend or prohibit an acquisition, merger, or take-
14 over under subsection (d), the acquisition, merger,
15 or takeover may not be consummated until 10 legis-
16 lative days after the President notifies the Congress
17 of the decision not to suspend or prohibit. If a joint
18 resolution objecting to the proposed transaction is
19 introduced in either House of Congress by the chair-
20 man of one of the appropriate congressional commit-
21 tees during such 10-legislative-day period, the trans-
22 action may not be consummated until 30 legislative
23 days after the date on which such resolution is intro-
24 duced.

1 “(2) DISAPPROVAL UPON PASSAGE OF RESOLU-
2 TION.—If a joint resolution introduced under para-
3 graph (1) is enacted into law, the transaction may
4 not be consummated.

5 “(3) CONSIDERATIONS.—The Committee on
6 Banking, Housing, and Urban Affairs of the Senate
7 and the Committee on Financial Services of the
8 House of Representatives shall review any findings
9 and recommendations submitted under subsection
10 (a) or (b), and any joint resolution under paragraph
11 (1) of this subsection shall be based on the factors
12 outlined in subsection (f).

13 “(4) SENATE PROCEDURE.—Any joint resolu-
14 tion under paragraph (1) shall be considered in the
15 Senate in accordance with the provisions of section
16 601(b) of the International Security Assistance and
17 Arms Export Control Act of 1976 (Public Law 94–
18 329, 90 Stat. 765).

19 “(5) HOUSE CONSIDERATION.—For the purpose
20 of expediting the consideration and enactment of a
21 joint resolution under paragraph (1), a motion to
22 proceed to the consideration of any such joint resolu-
23 tion shall be treated as highly privileged in the
24 House of Representatives.

1 “(m) THOROUGH REVIEW.—The President, or the
2 President’s designee, shall ensure that an acquisition,
3 merger, or takeover that is completed prior to a review
4 or investigation under this section shall be fully reviewed
5 for national security considerations, even in the event that
6 a request for such review is withdrawn.”.

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