

109TH CONGRESS
2D SESSION

S. 2442

To require the President or the Committee on Foreign Investment in the United States to submit to Congress draft investigation reports on national security related investigations, to address mandatory investigations by such committee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

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

A BILL

To require the President or the Committee on Foreign Investment in the United States to submit to Congress draft investigation reports on national security related investigations, to address mandatory investigations by such committee, and for other purposes.

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 “Safe Foreign Invest-
5 ments Act of 2006”.

1 **SEC. 2. NOTICE TO CONGRESS AND CERTIFICATION OF**
2 **RECOMMENDATIONS.**

3 Section 721 of the Defense Production Act of 1950
4 (50 U.S.C. App. 2170) is amended by adding at the end
5 the following:

6 “(l) NOTICE TO CONGRESS.—Not later than 7 days
7 before the date of completion of any investigation under
8 this section, and before any final determination becomes
9 effective, the President or the President’s designee shall
10 submit to the Committee on Homeland Security and Gov-
11 ernmental Affairs of the Senate and the Committee on
12 Homeland Security of the House of Representatives a
13 draft report of its findings.

14 “(m) CERTIFICATIONS.—In any case in which the
15 President’s designee makes an investigation under this
16 section, each member of CFIUS shall certify in writing
17 that member’s recommendations or submit a certified dis-
18 sent, as appropriate, to the President and to Congress at
19 the conclusion of such investigation.”.

20 **SEC. 3. MANDATORY INVESTIGATIONS.**

21 Section 721(b) of the Defense Production Act of
22 1950 (50 U.S.C. App. 2170(b)) is amended—

23 (1) by redesignating paragraphs (1) and (2) as
24 subparagraphs (A) and (B), respectively and indent-
25 ing appropriately;

1 (2) by striking “The President or” and insert-
2 ing the following:

3 “(1) INVESTIGATIONS INVOLVING FOREIGN
4 GOVERNMENTS.—The President or”; and

5 (3) by striking “in the United States that could
6 affect the national security of the United States.
7 Such investigation” and inserting the following: “in
8 the United States.

9 “(2) INVESTIGATIONS INVOLVING OTHER FOR-
10 EIGN PERSONS.—An investigation described in para-
11 graph (1) shall be required with respect to an entity
12 controlled by or acting on behalf of a foreign person
13 other than a foreign government only in any case in
14 which the subject merger, acquisition, or takeover of
15 the person engaged in interstate commerce in the
16 United States involves critical infrastructure, and
17 could affect the national security of the United
18 States.

19 “(3) TIMING.—Investigations under this sub-
20 section”.

21 **SEC. 4. PRESIDENTIAL FINDINGS.**

22 Section 721(e)(1) of the Defense Production Act of
23 1950 (50 U.S.C. App. 2170(e)(1)) is amended by striking
24 “, and” and inserting the following: “, or might fail to

1 take action necessary to prevent impairment of the na-
 2 tional security; and”.

3 **SEC. 5. DESIGNATION OF CFIUS.**

4 Section 721 of the Defense Production Act of 1950
 5 (50 U.S.C. App. 2170) is amended by adding at the end
 6 the following:

7 “(n) PRESIDENT’S DESIGNEE.—For purposes of this
 8 section, the President’s designee shall be the Committee
 9 on Foreign Investment in the United States (or ‘CFIUS’),
 10 established by order of the President in Executive Order
 11 11858, May 7, 1975, or any successor thereto. Notwith-
 12 standing any other rule, regulation, or order, for purposes
 13 of any investigation under this section, CFIUS shall be
 14 chaired by the Secretary of Homeland Security.”.

15 **SEC. 6. TECHNICAL CORRECTIONS.**

16 Section 721 of the Defense Production Act of 1950
 17 (50 U.S.C. App. 2170) is amended—

18 (1) in subsection (d), by striking “subsection
 19 (d)” and inserting “subsection (e)”; and

20 (2) in subsection (e), by striking “subsection
 21 (c)” and inserting “subsection (d)”.

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