

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

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## 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

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## 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 (e)” and inserting “subsection (d)”.

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