To maintain the ability of the United States Armed Forces to deny a fait accompli by the People’s Republic of China against Taiwan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To maintain the ability of the United States Armed Forces to deny a fait accompli by the People’s Republic of China against Taiwan, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taiwan Defense Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DENY.—The term “deny” means to use combined joint operations to delay, degrade, and ul-
timately defeat an attempt by the People’s Republic
of China to execute a fait accompli against Taiwan, resulting in—

(A) the termination of hostilities or, at a minimum, the termination of the attempted fait accompli; or

(B) the neutralization of the ability of the People’s Republic of China to execute a fait accompli against Taiwan.

(2) FAIT ACCOMPLI.—The term “fait accompli” means the strategy of the People’s Republic of China designed to allow the People’s Republic of China to use military force to seize control of Taiwan before the United States Armed Forces are able to respond effectively, while simultaneously deterring an effective combined joint response by the United States Armed Forces by convincing the United States that mounting such a response would be prohibitively difficult or costly.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Taiwan is—

(A) a beacon of democracy in Asia; and

(B) a steadfast partner of the United States in the common pursuit of a free and open Indo-Pacific region in which—
(i) all societies enjoy sovereign autonomy;
(ii) people live securely, prosperous, and with dignity; and
(iii) the societies of the region rise and fall not by coercion but on the basis of peaceful competition.

(2) If the Government of the People’s Republic of China were to use military force to compel the unification of Taiwan with the People’s Republic of China—

(A) the world would lose one of the great champions of freedom and democracy;
(B) the United States and allies and partners of the United States would face severe difficulty in maintaining favorable balances of power relative to the People’s Republic of China in Northeast and Southeast Asia; and
(C) as the balance of power in the Indo-Pacific region shifted in favor of the People’s Republic of China, the Government of the People’s Republic of China would possess an increasing ability—

(i) to impose its will throughout the Indo-Pacific region; and
(ii) to prevent United States access to key trade routes and markets in the Indo-Pacific region, thereby imposing severe economic hardship on middle-class and working-class people of the United States and undermining the American way of life.

(3) In January 2019, the Defense Intelligence Agency assessed that the “longstanding” intent of the Government of the People’s Republic of China to compel the unification of Taiwan with the People’s Republic of China, and deter any attempt by Taiwan to declare independence, was the “primary driver for China’s military modernization”.

(4) The Department of Defense Indo-Pacific Strategy Report released in June 2019, states that the Government of the People’s Republic of China is “preparing for a contingency to unify Taiwan with the mainland by force, while simultaneously deterring, delaying, or denying any third-party intervention on Taiwan’s behalf”.

(5) Department of Defense statements and publications indicate that the Government of the People’s Republic of China is developing the plans and capabilities required to employ the fait accompli
strategy to compel the unification of Taiwan with
the People’s Republic of China, including—

(A) the assessment by the Defense Science
Board in 2017 that the Government of the Peo-
ple’s Republic of China had adopted a theory of
victory whereby once conflict with the United
States appeared inevitable, as might be the case
if the Government of the People’s Republic of
China attempted to use military force to compel
the unification of Taiwan with the People’s Re-
public of China, then the Government of the
People’s Republic of China “will attempt to
achieve a decisive outcome very quickly, pre-
senting the United States and its allies with a
fait accompli” and “then seek to demonstrate
that the United States and its allies will incur
significant costs in seeking to reverse that out-
come”;

(B) the assessment in the Indo-Pacific
Strategy Report that, if the Government of the
People’s Republic of China or another compet-
itor in the Indo-Pacific region decides “to ad-
vance their interests through force, they are
likely to enjoy a local military advantage at the
onset of conflict. In a fait accompli scenario,
competitors would seek to employ their capabili-
ties quickly to achieve limited objectives and
forestall a response from the United States and
its allies and partners’’;

(C) testimony by then Acting Secretary of
Defense Patrick Shanahan in March 2019
that—

(i) the Government of the People’s
Republic of China “has made investments
specifically intended to offset U.S. advan-
tages’’; and

(ii) if deployed in the initial stages of
a conflict, “these capabilities could seek to
achieve a ‘fait accompli’ that would make
reversing Chinese gains more difficult,
militarily and politically’’; and

(D) testimony by then Commanding Gen-
eral of Marine Corps Combat Development
Command Lieutenant General David Berger in
April 2019 that peer adversaries of the United
States seek “to create strategic dilemmas
through fait accompli scenarios’’.

(6) In March 2019, then Acting Secretary of
Defense Patrick Shanahan testified that the imple-
mentation of the 2018 National Defense Strategy
would ensure the United States has “the capabili-
ties, posture, and employment of forces” required to
prevent a fait accompli by the People’s Republic of
China.

(7) According to the Indo-Pacific Strategy Re-
port, “[t]he National Defense Strategy implicitly ac-
knowledges the most stressing potential scenarios
will occur along our competitors’ peripheries”. An
attempted fait accompli by the People’s Republic of
China against Taiwan should therefore be expected
to constitute a “most stressing” potential scenario
for the United States Armed Forces.

(8) The National Defense Strategy Commission
found that the United States Armed Forces must be
postured “to deter and prevent a fait accompli by an
agile opportunistic adversary” in order to compete
effectively in the Indo-Pacific region and stated that
“the United States must develop new operational
concepts to achieve strategic advantage, including by
addressing the ability of aggressive regimes to
achieve a fait accompli against states on their pe-
riphery,” in recognition of—

(A) the unique challenges to the United
States Armed Forces posed by the employment
of the fait accompli strategy by the Government
of the People’s Republic of China or another strategic competitor; and

(B) the consequent urgent need for new thinking and steady focus by the Department of Defense on ensuring the ability of the United States Armed Forces to prevent an adversary from using the fait accompli strategy to advance its interests at the expense of those of the United States.

(9) Department of Defense strategic guidance and official statements underscore the essential role that denial operations will play in preventing a fait accompli by the People’s Republic of China against Taiwan, including—

(A) the incorporation in the National Defense Strategy of the Global Operating Model that includes a “blunt layer” of combat-credible forward forces postured and employed to “delay, degrade, or deny adversary aggression”;

(B) the conclusion by the National Defense Strategy Commission that the Department of Defense must position “substantial capability forward” in the form of the “blunt layer” included in the Global Operating Model to “deter and prevent a fait accompli”;
(C) the statement for the record by the Commander of the United States Indo-Pacific Command, Admiral Phil Davidson, in April 2018 in which he concludes, “[d]ue to the distances involved in the Indo-Pacific, we cannot rely solely on surge forces from the continental United States to deter Chinese aggression or prevent a fait accompli. PACOM must maintain a robust blunt layer that effectively deters Chinese aggression in the Indo-Pacific”;

(D) the Joint Operating Concept for Deterrence Operations, which states that forward-deployed forces, such as those included in the blunt layer of the Global Operating Model and referenced by the National Defense Strategy Commission and the Commander of the United States Indo-Pacific Command, contribute to “denying benefits” and thereby reduce “the likelihood of an adversary achieving strategic or tactical surprise, thus helping to prevent adversary decisionmakers from concluding they might achieve a military fait accompli that could be extremely costly for the [United States] to reverse by force”;
(E) the United States Army Multi-Domain Operations concept document, which states that the Armed Forces must demonstrate the capability “to immediately deny a fait accompli attack” in order to deter a near-peer adversary; and

(F) the Marine Corps Force Design 2030 report, which states that forward-deployed forces “that can continue to operate inside an adversary’s long-range precision-fire weapons engagement zone (WEZ) are more operationally relevant than forces which must rapidly maneuver to positions outside the WEZ in order to remain survivable,” and that such “stand-in” forces possess the capability to “attrite adversary forces, enable joint force access requirements, complicate targeting and consume adversary [intelligence, surveillance, and reconnaissance] resources, and prevent fait accompli scenarios”.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the ability of the United States to uphold a free and open Indo-Pacific region would be severely compromised if the Government of the Peo-
ple’s Republic of China were able to compel the uni-
ification of Taiwan with the People’s Republic of
China, particularly if the People’s Republic of China
were able to do so by military force;

(2) the loss by the United States of the ability
to maintain a free and open Indo-Pacific region
would result in the significantly increased vulner-
ability of the middle-class and working-class people
of the United States and the allies and partners of
the United States to economic coercion by the Gov-
ernment of the People’s Republic of China;

(3) the fate of Taiwan is therefore crucially
linked to the fates of all countries in the Indo-Pa-
cific region, including to the fate of the United
States;

(4) under the Taiwan Relations Act (22 U.S.C.
3301 et seq.), it is the policy of the United States
to consider any effort to determine the future of
Taiwan by other than peaceful means to be of grave
concern to the United States;

(5) since 1979, the United States Government
has consistently upheld the commitments of the
United States under the Taiwan Relations Act (22
U.S.C. 3301 et seq.);
(6) the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) reaffirms that the Taiwan Relations Act (22 U.S.C. 3301 et seq.) and the “Six Assurances” are the cornerstones of United States relations with Taiwan;

(7) the Taiwan Relations Act (22 U.S.C. 3301 et seq.) further establishes the policy of the United States “to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan”;

(8) the Government of the People’s Republic of China appears to be developing the plans and capabilities required to use the fait accompli strategy to compel the unification of Taiwan with the People’s Republic of China, thereby jeopardizing the security and the social and economic system of the people of Taiwan;

(9) denial operations will have an essential role in any strategy to prevent a fait accompli by the People’s Republic of China against Taiwan; and

(10) implementation of the Taiwan Relations Act (22 U.S.C. 3301 et seq.) therefore requires the United States to maintain the ability to defeat a fait
accompli by the People’s Republic of China against Taiwan, especially by denial operations.

SEC. 5. STATEMENT OF POLICY.

It shall be the policy of the United States to maintain the ability of the United States Armed Forces to deny a fait accompli by the People’s Republic of China against Taiwan.

SEC. 6. REPORT ON PROGRESS OF THE DEPARTMENT OF
DEFENSE WITH RESPECT TO DENYING A FAIT ACCOMPLI BY THE PEOPLE’S REPUBLIC OF CHINA AGAINST TAIWAN.

(a) In General.—Not later than April 30 each year, beginning in 2021 and ending in 2026, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the Department of Defense with respect to improving the ability of the United States Armed Forces to conduct combined joint operations to deny the ability of the People’s Republic of China to execute a fait accompli against Taiwan.

(b) Matters To Be Included.—Each report under subsection (a) shall include the following:

(1) An explanation of the objectives for the United States Armed Forces that would be necessary to deny the fait accompli by the People’s Republic of China against Taiwan.
(2) An identification of joint warfighting capabilities and current efforts to organize, train, and equip the United States Armed Forces in support of the objectives referred to in paragraph (1), including—

(A) an assessment of whether the programs included in the most recent future-years defense program submitted to Congress under section 221 of title 10, United States Code, are sufficient to enable the United States Armed Forces to conduct joint combined operations to achieve such objectives;

(B) a description of additional investments or force posture adjustments required to maintain or improve the ability of the United States Armed Forces to conduct joint combined operations to achieve such objectives;

(C) a description of the manner in which the Secretary of Defense intends to develop and integrate Army, Navy, Air Force, Marine Corps, and Space Force operational concepts to maintain or improve the ability of the United States Armed Forces to conduct joint combined operations to achieve such objectives; and
(D) an assessment of the manner in which different options for pre-delegating authorities, including authorities relating to kinetic strikes against targets on the mainland of the People’s Republic of China, may improve the ability of the United States Armed Forces to conduct joint combined operations to achieve such objectives.

(3) An assessment of the role of the nuclear forces of the United States in deterring or defeating a fait accompli by the People’s Republic of China against Taiwan, including concepts for—

(A) deterring limited use of nuclear weapons by the People’s Republic of China in the Indo-Pacific region without undermining the ability of the United States Armed Forces to maintain nuclear deterrence at the strategic and theater levels against the Russian Federation and the Democratic People’s Republic of Korea; and

(B) ensuring the United States Armed Forces are able to continue combined joint operations to defend Taiwan in a nuclear environment following nuclear weapons use by the People’s Republic of China or the United States.
(c) **Form.**—Each report required by subsection (a) shall be submitted in classified form but may include an unclassified executive summary.

(d) **Congressional Defense Committees Defined.**—In this section, the term “congressional defense committees” has the meaning given the term in section 101(a)(16) of title 10, United States Code.