

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To maintain the ability of the United States Armed Forces to deny a fait accompli by the People's Republic of China against Taiwan.

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IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself, Mr. TILLIS, Mr. TUBERVILLE, Mr. DAINES, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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.

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 “Taiwan Defense Act  
5 of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DENY.—The term “deny” means to use  
9 combined joint operations to delay, degrade, and ul-

1 timately defeat an attempt by the People’s Republic  
2 of China to execute a fait accompli against Taiwan,  
3 resulting in—

4 (A) the termination of hostilities or at  
5 least the attempted fait accompli; or

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

9 (2) FAIT ACCOMPLI.—The term “fait accompli”  
10 refers to the strategy of the People’s Republic of  
11 China for invading and seizing control of Taiwan be-  
12 fore the United States Armed Forces can respond  
13 effectively, while simultaneously deterring an effec-  
14 tive combined joint response by the United States  
15 Armed Forces by convincing the United States that  
16 mounting such a response would be prohibitively dif-  
17 ficult or costly.

18 **SEC. 3. FINDINGS.**

19 Congress makes the following findings:

20 (1) Taiwan is a beacon of democracy in Asia  
21 and a steadfast partner of the United States in the  
22 common pursuit of a free and open Indo-Pacific re-  
23 gion in which—

24 (A) all societies enjoy sovereign autonomy;

1 (B) the people of the region live securely,  
2 prosperously, and with dignity; and

3 (C) the societies of the region rise and fall  
4 not by coercion but on the basis of peaceful  
5 competition.

6 (2) If the People's Republic of China were to  
7 use military force to compel the unification of Tai-  
8 wan with the People's Republic of China—

9 (A) the world would lose one of the great  
10 exemplars of freedom and democracy;

11 (B) the United States and allies and part-  
12 ners of the United States would face severe dif-  
13 ficulty in maintaining favorable balances of  
14 power relative to the People's Republic of China  
15 in Northeast and Southeast Asia; and

16 (C) as the balance of power in the Indo-  
17 Pacific region shifted in favor of the People's  
18 Republic of China, the People's Republic of  
19 China would possess an increasing ability to—

20 (i) impose its will throughout the  
21 Indo-Pacific region, including by threat-  
22 ening or using force against Japan, South  
23 Korea, the Philippines, and other allies  
24 and partners of the United States; and

1                   (ii) restrict United States access to  
2                   key trade routes and markets in the Indo-  
3                   Pacific region, thereby imposing economic  
4                   hardship on middle-class and working-class  
5                   Americans and increasing the ability of the  
6                   People’s Republic of China to intrude into  
7                   political life in the United States.

8                   (3) There is growing concern that the Govern-  
9                   ment of the People’s Republic of China may con-  
10                  clude that the cross-Strait military balance has tilted  
11                  in its favor and launch an invasion of Taiwan sooner  
12                  than previously anticipated, including as follows:

13                  (A) Former Assistant to the President for  
14                  National Security Affairs H.R. McMaster testi-  
15                  fied in March 2021 that Taiwan is “the most  
16                  significant flashpoint now” between the United  
17                  States and the People’s Republic of China.

18                  (B) Commander of United States Indo-Pa-  
19                  cific Command Admiral John Aquilino testified  
20                  in March 2021 that the threat of an invasion  
21                  by the People’s Republic of China of Taiwan is  
22                  “much closer to us than most think” and could  
23                  materialize well before 2035.

24                  (C) Former Commander of United States  
25                  Indo-Pacific Command Admiral Phil Davidson

1 testified in March 2021 that the threat of an  
2 invasion by the People’s Republic of China of  
3 Taiwan “is manifest during this decade, in fact  
4 in the next six years”.

5 (4) Defense policymakers and analysts across  
6 multiple administrations have found that, if the Peo-  
7 ple’s Republic of China does invade Taiwan, the in-  
8 vasion will likely take the form of a *fait accompli*,  
9 including as follows:

10 (A) The Defense Science Board assessed in  
11 June 2018 that the People’s Republic of China  
12 “will attempt to achieve a decisive outcome very  
13 quickly, presenting the United States and its al-  
14 lies with a *fait accompli*,” in the event of con-  
15 flict.

16 (B) The Department of Defense Indo-Pa-  
17 cific Strategy Report released in June 2019  
18 found that—

19 (i) if the People’s Republic of China  
20 or another strategic competitor in the  
21 Indo-Pacific region decides “to advance  
22 their interests through force, they are like-  
23 ly to enjoy a local military advantage at  
24 the onset of conflict. In a *fait accompli* sce-  
25 nario, competitors would seek to employ

1           their capabilities quickly to achieve limited  
2           objectives and forestall a response from the  
3           United States, and its allies and partners”;  
4           and

5                   (ii) an attempted *fait accompli* by the  
6           People’s Republic of China or another  
7           strategy competitor would constitute one of  
8           the “most stressing potential scenarios”  
9           facing the United States Armed Forces.

10           (C) The Tri-Service Maritime Strategy re-  
11           leased by the United States Navy, United  
12           States Marine Corps, and United States Coast  
13           Guard in December 2020 stated, “In the event  
14           of conflict, China. . .will likely attempt to seize  
15           territory before the United States and its allies  
16           can mount an effective response—leading to a  
17           *fait accompli*.”.

18           (D) The Army Multi-Domain Trans-  
19           formation strategic guidance released by Army  
20           Chief of Staff General James McConville in  
21           March 2021 stated that China and other adver-  
22           saries of the United States will seek to “seize  
23           their objectives quickly as a *fait accompli*,” if  
24           the Joint Force “cannot present credible deter-  
25           rent options”.

1           (E) Then-Acting Secretary of Defense Pat-  
2           rick Shanahan testified in March 2019 that the  
3           Government of the People’s Republic of China  
4           is developing capabilities that could be used to  
5           “achieve a ‘fait accompli’ that would make re-  
6           versing Chinese gains more difficult, militarily  
7           and politically”.

8           (F) Special Assistant to the Secretary of  
9           Defense for China Ely Ratner assessed in Jan-  
10          uary 2020 that “China has made significant in-  
11          vestments in long-range ISR and strike assets”  
12          and “China hopes the threat of these attacks  
13          will deter U.S. intervention by negating a sub-  
14          stantial portion of U.S. airpower early in a con-  
15          flict, thereby creating time and space for a fait  
16          accompli”.

17          (G) Former Under Secretary of Defense  
18          for Policy Michèle Flournoy warned in June  
19          2020 that the Government of the People’s Re-  
20          public of China may believe the United States  
21          “lack[s] the military capabilities that might be  
22          effective in the face of A2/AD” and “conclude  
23          that China should move on Taiwan sooner rath-  
24          er than later, a fait accompli that a weakened

1 and distracted United States would have to ac-  
2 cept”.

3 (5) There is broad agreement that the United  
4 States should maintain the ability of the United  
5 States Armed Forces to defeat a fait accompli by the  
6 People’s Republic of China, including as follows:

7 (A) The National Defense Strategy Com-  
8 mission assessed in November 2018 that com-  
9 peting successfully in “the Indo-Pacific region,  
10 while also managing escalation dynamics, re-  
11 quires positioning substantial capability for-  
12 ward. . .to deter and prevent a fait accompli by  
13 an agile, opportunistic adversary”.

14 (B) Then-Acting Secretary of Defense Pat-  
15 rick Shanahan testified in March 2019 that im-  
16 plementation of the 2018 National Defense  
17 Strategy was required to ensure the United  
18 States had “the capabilities, posture, and em-  
19 ployment of forces” necessary to prevent a fait  
20 accompli by the People’s Republic of China.

21 (C) Assistant to the President for National  
22 Security Affairs Jake Sullivan and Deputy As-  
23 sistant to the President and Coordinator for  
24 Indo-Pacific Affairs on the National Security  
25 Council Kurt Campbell warned in September

1           2019 that “Beijing cannot be allowed to use the  
2           threat of force to pursue a fait accompli in ter-  
3           ritorial disputes”.

4           (D) Former Under Secretary of Defense  
5           for Policy James Miller wrote in October 2020  
6           that “U.S. defense planners must maintain a  
7           laser focus on a scenario for which U.S. forces  
8           are ill-prepared today, in which China. . .see[s]  
9           the opportunity for a quick invasion of a U.S.  
10          partner or ally and attempt[s] to impose a fait  
11          accompli that would be costly and risky to re-  
12          verse”.

13          (E) In January 2021, Secretary of Defense  
14          Lloyd Austin upheld the assessment by the  
15          Indo-Pacific Strategy Report that Department  
16          of Defense “initiatives on force employment,  
17          crisis response, force and concept development,  
18          and collaboration with allies and partners”  
19          should be “aimed to help address this critical  
20          challenge” of a potential fait accompli scenario  
21          involving the People’s Republic of China.

22          (F) Deputy Secretary of Defense Kathleen  
23          Hicks testified in February 2021 that the Peo-  
24          ple’s Republic of China is “less likely” to at-  
25          tempt a fait accompli against Taiwan if it

1 knows that the United States will be able to de-  
2 feat such an attempt, and that the United  
3 States should therefore maintain the ability to  
4 defeat a fait accompli by the People's Republic  
5 of China against Taiwan.

6 (G) Under Secretary of Defense for Policy  
7 Colin Kahl, Admiral Aquilino, and Admiral Da-  
8 vidson testified in March 2021 that they agreed  
9 with the testimony by Deputy Secretary Hicks,  
10 and that the United States should maintain the  
11 ability to defeat a fait accompli by the People's  
12 Republic of China against Taiwan in order to  
13 strengthen deterrence against such a contin-  
14 gency.

15 (H) Former Assistant to the President and  
16 Deputy National Security Advisor Matt  
17 Pottinger testified in June 2021 that "the De-  
18 partment of Defense must ensure that it can  
19 deny China's ability to forcibly subordinate Tai-  
20 wan, including through a fait accompli at-  
21 tempt," and that "time is running short" to do  
22 so.

23 (I) Secretary Austin testified in June 2021  
24 that the United States should maintain its abil-  
25 ity to defeat a Chinese fait accompli against

1 Taiwan, including by maintaining a combat-  
2 credible forward deterrent posture.

3 (6) There is likewise broad agreement that a  
4 strategy of denial is essential to deter or defeat a  
5 fait accompli by the People's Republic of China  
6 against Taiwan, including as follows:

7 (A) The 2018 National Defense Strategy  
8 tasked the Department of Defense with pos-  
9 turing and employing forces to “delay, degrade,  
10 or deny adversary aggression”.

11 (B) Secretary Austin argued in January  
12 2021 that a “combat-credible, forward deter-  
13 rent posture is instrumental to the United  
14 States military's ability to deter, and if nec-  
15 essary, deny a fait accompli scenario”.

16 (C) Deputy Secretary Hicks, Under Sec-  
17 retary Kahl, Admiral Aquilino, and Admiral  
18 Davidson reaffirmed the emphasis by Secretary  
19 Austin on denial and testified that a strategy of  
20 denial is essential for deterring Chinese aggres-  
21 sion.

22 (D) The Joint Operating Concept for De-  
23 terrence Operations released in December 2017  
24 states that forward-deployed forces contribute  
25 to “denying benefits” and thereby reduce “the

1           likelihood of an adversary achieving strategic or  
2           tactical surprise, thus helping to prevent adver-  
3           sary decision-makers from concluding they  
4           might achieve a military fait accompli that  
5           could be extremely costly for the US to reverse  
6           by force”.

7           (E) The United States Army’s Multi-Domain  
8           Operations concept document released in  
9           December 2018 states that Army forces must  
10          demonstrate the capability “to immediately  
11          deny a fait accompli” in order to deter a near-  
12          peer adversary.

13          (F) The Marine Corps Force Design 2030  
14          report released in March 2020 states that forward-  
15          deployed forces possess the capability to  
16          “attrite adversary forces, enable joint force access  
17          requirements, complicate targeting and  
18          consume adversary ISR resources, and prevent  
19          fait accompli scenarios”.

20          (G) The Tri-Service Maritime Strategy directs  
21          the United States Navy, United States  
22          Marine Corps, and United States Coast Guard  
23          to “deny adversaries their objectives, defeat adversary  
24          forces while managing escalation, and

1 set the conditions for favorable conflict termi-  
2 nation”.

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

8 (A) the Taiwan Relations Act further es-  
9 tablishes it as the policy of the United States  
10 “to maintain the capacity of the United States  
11 to resist any resort to force or other forms of  
12 coercion that would jeopardize the security, or  
13 the social or economic system, of the people on  
14 Taiwan”;

15 (B) implementation of the Taiwan Rela-  
16 tions Act therefore requires the United States  
17 to maintain the ability of the United States  
18 Armed Forces to defeat a fait accompli by the  
19 People’s Republic of China against Taiwan;

20 (C) since 1979, the United States Govern-  
21 ment has consistently upheld the commitments  
22 of the United States under the Taiwan Rela-  
23 tions Act;

24 (D) section 1260 of the William M. (Mac)  
25 Thornberry National Defense Authorization Act

1 for Fiscal Year 2021 (Public Law 116–283) re-  
2 affirms that the Taiwan Relations Act and the  
3 Six Assurances are the cornerstones of United  
4 States relations with Taiwan;

5 (E) the Department of State reaffirmed in  
6 January 2021 that “[t]he United States main-  
7 tains its longstanding commitments as outlined  
8 in the Three Communiques, the Taiwan Rela-  
9 tions Act, and the Six Assurances,” and that  
10 the commitment of the United States to Taiwan  
11 is “rock-solid”;

12 (F) a failure by the United States to con-  
13 tinue to uphold all of its obligations under the  
14 Taiwan Relations Act, including by clearly  
15 maintaining the ability of the United States  
16 Armed Forces to defeat a fait accompli by the  
17 People’s Republic of China against Taiwan,  
18 could draw into question the willingness and  
19 ability of the United States to uphold analogous  
20 commitments elsewhere in the Indo-Pacific re-  
21 gion; and

22 (G) any such loss of credibility could jeop-  
23 ardize the ability of the United States to forge  
24 and sustain the coalition of nations required to  
25 maintain a favorable balance of power against

1           the People’s Republic of China, thereby denying  
2           the hegemonic ambitions of the People’s Repub-  
3           lic of China.

4 **SEC. 4. SENSE OF CONGRESS.**

5           It is the sense of Congress that—

6           (1) the ability of the United States to maintain  
7           a free and open Indo-Pacific region would be signifi-  
8           cantly compromised if the People’s Republic of  
9           China were able to invade and seize control of Tai-  
10          wan, with severe implications for the lives, liveli-  
11          hoods, and freedoms of working Americans and the  
12          allies and partners of the United States in the Indo-  
13          Pacific region;

14          (2) the most effective way for the People’s Re-  
15          public of China to seize control of Taiwan is by way  
16          of invasion, and an invasion of Taiwan by the Peo-  
17          ple’s Republic of China is likely to take the form of  
18          a fait accompli;

19          (3) implementation of the Taiwan Relations Act  
20          requires the United States to maintain the ability of  
21          the United States Armed Forces to defeat a fait  
22          accompli by the People’s Republic of China against  
23          Taiwan, and officials across multiple administrations  
24          have affirmed that—

1 (A) the United States should maintain the  
2 ability of the United States Armed Forces to  
3 defeat a fait accompli by the People's Republic  
4 of China against Taiwan, and

5 (B) a strategy of denial is the most effec-  
6 tive option for deterring or defeating a fait  
7 accompli by the People's Republic of China  
8 against Taiwan;

9 (4) the Department of Defense has nonetheless  
10 struggled to consistently focus sufficient attention  
11 and resources on maintaining the ability to deny a  
12 fait accompli by the People's Republic of China  
13 against Taiwan, and as a result—

14 (A) the Government of the People's Repub-  
15 lic of China may believe that it can launch a  
16 successful fait accompli against Taiwan as soon  
17 as 2027; and

18 (B) the governments of allies and partners  
19 of the United States in the Indo-Pacific region  
20 may question the will or ability of the United  
21 States to lead efforts to prevent the People's  
22 Republic of China from dominating the Indo-  
23 Pacific region; and

24 (5) it should therefore be the policy of the  
25 United States to maintain the ability of the United

1 States Armed Forces to deny a fait accompli by the  
2 People's Republic of China against Taiwan in order  
3 to—

4 (A) ensure the Department of Defense  
5 adequately prioritizes maintaining the ability to  
6 deny a fait accompli by the People's Republic of  
7 China against Taiwan as it develops strategies  
8 and plans and designs, postures, and employs  
9 the United States Armed Forces; and

10 (B) by doing so, clarify for the Govern-  
11 ment of the People's Republic of China and  
12 other governments in the Indo-Pacific region  
13 that the United States maintains and will con-  
14 tinue to maintain the ability of the United  
15 States Armed Forces to deny a fait accompli by  
16 the People's Republic of China against Taiwan,  
17 as required by the Taiwan Relations Act and in  
18 order to strengthen deterrence in the Indo-Pa-  
19 cific region.

20 **SEC. 5. STATEMENT OF POLICY.**

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