

108TH CONGRESS  
1ST SESSION

# S. 1738

To reauthorize the Defense Production Act of 1950, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2003

Mr. DODD 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 reauthorize the Defense Production Act of 1950, 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 “Defense Production  
5       Act Reauthorization of 2003”.

6       **SEC. 2. REAUTHORIZATION OF DEFENSE PRODUCTION ACT**  
7               **OF 1950.**

8       (a) IN GENERAL.—The 1st sentence of section  
9       717(a) of the Defense Production Act of 1950 (50 U.S.C.  
10       App. 2166(a)) is amended—

1 (1) by striking “sections 708” and inserting  
2 “sections 707, 708,”; and

3 (2) by striking “September 30, 2003” and in-  
4 serting “September 30, 2004”.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
6 711(b) of the Defense Production Act of 1950 (50 U.S.C.  
7 App. 2161(b)) is amended by striking “through 2003”  
8 and inserting “through 2004”.

9 **SEC. 3. RESOURCE SHORTFALL FOR RADIATION-HARD-**  
10 **ENED ELECTRONICS.**

11 (a) IN GENERAL.—Notwithstanding the limitation  
12 contained in section 303(a)(6)(C) of the Defense Produc-  
13 tion Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), the  
14 President may take actions under section 303 of the De-  
15 fense Production Act of 1950 to correct the industrial re-  
16 source shortfall for radiation-hardened electronics, to the  
17 extent that such Presidential actions do not cause the ag-  
18 gregate outstanding amount of all such actions to exceed  
19 \$200,000,000.

20 (b) REPORT BY THE SECRETARY.—Before the end of  
21 the 6-month period beginning on the date of the enact-  
22 ment of this Act, the Secretary of Defense shall submit  
23 a report to the Committee on Banking, Housing, and  
24 Urban Affairs of the Senate and the Committee on Finan-  
25 cial Services of the House of Representatives describing—

1           (1) the current state of the domestic industrial  
2       base for radiation-hardened electronics;

3           (2) the projected requirements of the Depart-  
4       ment of Defense for radiation-hardened electronics;

5           (3) the intentions of the Department of Defense  
6       for the industrial base for radiation-hardened elec-  
7       tronics; and

8           (4) the plans of the Department of Defense for  
9       use of providers of radiation-hardened electronics be-  
10      yond the providers with which the Department had  
11      entered into contractual arrangements under the au-  
12      thority of the Defense Production Act of 1950, as of  
13      the date of the enactment of this Act.

14   **SEC. 4. CLARIFICATION OF PRESIDENTIAL AUTHORITY.**

15       Subsection (a) of section 705 of the Defense Produc-  
16      tion Act of 1950 (50 U.S.C. App. 2155(a)) is amended  
17      by inserting after the end of the 1st sentence the following  
18      new sentence: “The authority of the President under this  
19      section includes the authority to obtain information in  
20      order to perform industry studies assessing the capabili-  
21      ties of the United States industrial base to support the  
22      national defense.”.

1 **SEC. 5. CRITICAL INFRASTRUCTURE PROTECTION AND**  
 2 **RESTORATION.**

3 Section 702 of the Defense Production Act of 1950  
 4 (50 U.S.C. App. 2152) is amended—

5 (1) by redesignating paragraphs (3) through  
 6 (17) as paragraphs (4) through (18), respectively;

7 (2) by inserting after paragraph (2) the fol-  
 8 lowing new paragraph:

9 “(3) **CRITICAL INFRASTRUCTURE.**—The term  
 10 ‘critical infrastructure’ means any systems and as-  
 11 sets, whether physical or cyber-based, so vital to the  
 12 United States that the degradation or destruction of  
 13 such systems and assets would have a debilitating  
 14 impact on national security, including, but not lim-  
 15 ited to, national economic security and national pub-  
 16 lic health or safety.”; and

17 (3) in paragraph (14) (as so redesignated by  
 18 paragraph (1) of this section), by inserting “and  
 19 critical infrastructure protection and restoration”  
 20 before the period at the end of the last sentence.

21 **SEC. 6. REPORT ON CONTRACTING WITH MINORITY- AND**  
 22 **WOMEN-OWNED BUSINESSES.**

23 (a) **REPORT REQUIRED.**—Before the end of the 1-  
 24 year period beginning on the date of the enactment of this  
 25 Act, the Secretary of Defense shall submit a report to the  
 26 Committee on Banking, Housing, and Urban Affairs of

1 the Senate and the Committee on Financial Services of  
2 the House of Representatives on the extent to which con-  
3 tracts entered into during the fiscal year ending before  
4 the end of such 1-year period under the Defense Produc-  
5 tion Act of 1950 have been contracts with minority- and  
6 women-owned businesses.

7 (b) CONTENTS OF REPORT.—The report submitted  
8 under subsection (a) shall include the following:

9 (1) The types of goods and services obtained  
10 under contracts with minority- and women-owned  
11 businesses under the Defense Production Act of  
12 1950 in the fiscal year covered in the report.

13 (2) The dollar amounts of such contracts.

14 (3) The ethnicity of the majority owners of such  
15 minority- and women-owned businesses.

16 (4) A description of the types of barriers in the  
17 contracting process, such as requirements for secu-  
18 rity clearances, that limit contracting opportunities  
19 for minority- and women-owned businesses, together  
20 with such recommendations for legislative or admin-  
21 istrative action as the Secretary of Defense may de-  
22 termine to be appropriate for increasing opportuni-  
23 ties for contracting with minority- and women-owned  
24 businesses and removing barriers to such increased  
25 participation.

1       (c) DEFINITIONS.—For purposes of this section, the  
 2 terms “women-owned business” and “minority-owned  
 3 business” have the meanings given such terms in section  
 4 21A(r) of the Federal Home Loan Bank Act, and the term  
 5 “minority” has the meaning given such term in section  
 6 1204(c)(3) of the Financial Institutions Reform, Recov-  
 7 ery, and Enforcement Act of 1989.

8       **SEC. 7. COMMERCE RESPONSIBILITIES REGARDING CON-**  
 9                                   **SULTATION WITH FOREIGN NATIONS.**

10       (a) OFFSETS IN DEFENSE PROCUREMENTS.—Sec-  
 11 tion 123(c) of the Defense Production Act Amendments  
 12 of 1992 (50 U.S.C. App. 2099 note) is amended to read  
 13 as follows:

14       “(c) NEGOTIATIONS.—

15               “(1) INTERAGENCY TEAM.—It is the policy of  
 16 Congress that the President shall designate the Sec-  
 17 retary of Commerce to lead, in coordination with the  
 18 Secretary of State, an interagency team to negotiate  
 19 with foreign nations the elimination of offset ar-  
 20 rangements, industrial participation, or similar ar-  
 21 rangements in defense procurement. The President  
 22 shall transmit an annual report on the results of  
 23 these negotiations to the Congress as part of the re-  
 24 port required under section 309(a) of the Defense  
 25 Production Act of 1950.

1           “(2) RECOMMENDATIONS FOR MODIFICA-  
2           TIONS.—Pending the elimination of the arrange-  
3           ments described in paragraph (1), the interagency  
4           team shall submit to the Secretary of Defense any  
5           recommendations for modifications of a memo-  
6           randum of understanding entered into under section  
7           2531 of title 10, United States Code, or a related  
8           agreement that the team considers to be an appro-  
9           priate response to a contractual offset, industrial  
10          participation, or similar arrangement that is entered  
11          into under the policy to which section 2532 of such  
12          title applies.

13          “(3) NOTIFICATION TO USTR REGARDING OFF-  
14          SETS.—If the interagency team determines that a  
15          foreign country is pursuing a policy on contractual  
16          offset arrangements, industrial participation ar-  
17          rangements, or similar arrangements in connection  
18          with the purchase of defense equipment or supplies  
19          that requires compensation for the purchase in the  
20          form of nondefense or dual-use equipment or sup-  
21          plies in a value greater than the defense equipment  
22          or supplies, the team shall notify the United States  
23          Trade Representative of that determination. Upon  
24          receipt of the notification, the United States Trade  
25          Representative shall treat the policy and each such

1 arrangement as an act, policy, or practice by the for-  
 2 eign country that is unjustifiable and burdens or re-  
 3 stricts United States commerce for purposes of sec-  
 4 tion 304(a)(1) of the Trade Act of 1974 (19 U.S.C.  
 5 2414(a)(1)), and shall take appropriate action under  
 6 title III of such Act with respect to such country.”.

7 (b) REPORT ON EFFECTS OF FOREIGN CONTRACTS  
 8 ON DOMESTIC CONTRACTORS.—Section 309(d)(1) of the  
 9 Defense Production Act of 1950 (50 U.S.C. App.  
 10 2099(d)(1)) is amended—

11 (1) in subparagraph (D), by striking “and” at  
 12 the end; and

13 (2) in subparagraph (E), by striking the period  
 14 at the end and inserting the following: “; and

15 “(F) a compilation of data delineating—

16 “(i) the impact of foreign contracts  
 17 that have been awarded through offsets,  
 18 industrial participation agreements, or  
 19 similar arrangements, on domestic prime  
 20 contractors, and at least the first three  
 21 tiers of subcontractors; and

22 “(ii) details of contracts with foreign  
 23 1st, 2nd, and 3rd tier subcontractors  
 24 awarded through offsets, industrial partici-

1                   pation agreements, or similar arrange-  
2                   ments.”.

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