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United States Senate

WASHINGTON, DC 20510-3205

May 16, 2022

COMMITTEES:  
AGRICULTURE  
ARMED SERVICES  
SELECT COMMITTEE ON INTELLIGENCE  
SPECIAL COMMITTEE ON AGING

President Joseph R. Biden  
The White House  
1600 Pennsylvania Ave NW  
Washington, D.C. 20500

Dear President Biden,

I respectfully request for you to invoke your authorities granted under the *Defense Production Act of 1950* (P.L. 81-774, 50 U.S.C. §§ 4501 et seq.) to increase the production of baby formula needed to provide essential nutrition to infants across the country. The prioritization of baby formula production is crucial to address hoarding, offset price gouging, and alleviate the stress and anxiety faced by millions of desperate parents searching for food for their young children.

As you know, due to an increase in demand heading into 2022 and tragic faults in private sector production, parents across the United States have faced a stunning lack of availability in baby formula. This shortage has led many families across the country to sometimes drive hours in search of formula, only to arrive at empty shelves. For low-income, rural, and urban families, finding in-stock formula continues to present a substantial and stressful challenge; for those with infants who have allergies and medical conditions, their options are even more limited, and shortages have become an issue of life or death.

Under the *Defense Production Act*, the President is given a broad set of authorities to assist domestic industry in solving critical national issues like the current shortage of formula. Under Title I of the *Defense Production Act*, you have the authority to require persons, businesses, and corporations to prioritize and accept contracts for baby formula production under both emergency and non-emergency conditions. Titles III and VII also allow you to direct the expansion of productive capacity and supply of baby formula through incentivizing the domestic industrial base when a critical shortage exists, while entering into voluntary agreements with private businesses to coordinate the production of excess formula. These authorities have been employed numerous times since the 1950s to supplement national stockpiles. Given that certain reports suggest that nearly 40% of formula nationwide is now out of stock, the need to intensify production of formula to prevent a future child nutrition crisis is clear.<sup>1</sup>

Thank you for all that you and your Administration have done thus far to assist America's parents, children, and infants, and for engaging with private industry on this issue. I look forward to working with you and the Administration to address this urgent problem.

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<sup>1</sup> Kavilanz, Parija, *The baby formula supply problem is getting worse*, CNN (May 11, 2022), available at <https://www.cnn.com/2022/05/08/business/baby-formula-shortage/index.html>.

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Sincerely,

A handwritten signature in blue ink that reads "Kirsten Gillibrand". The signature is written in a cursive, flowing style.

Kirsten Gillibrand  
United States Senator

CC: The Honorable Lloyd J. Austin III, Secretary of Defense