H. J. RES. 52

To repeal and replace the Authorization for Use of Military Force.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2023

Mr. MEEKS (for himself, Mr. Kim of New Jersey, Ms. Kuster, Ms. Dean of Pennsylvania, Mr. Allred, Mr. Phillips, Mr. Crow, and Mr. Carson) submitted the following joint resolution; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JOINT RESOLUTION

To repeal and replace the Authorization for Use of Military Force.

Whereas the Constitution vests Congress with the sole authority to declare war and authorize the use of military force;

Whereas Congress has not updated the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224; 50 U.S.C. 1541 note) since it was enacted into law seven days after the attacks of September 11, 2001;

Whereas the Authorization for Use of Military Force has been expanded to authorize the use of military force
against entities that did not exist at the time of those attacks;

Whereas the United States remains ready to defend itself, when necessary, against armed attack, or the imminent threat of such an attack, by foreign terrorist groups; and

Whereas Congress recognizes that the members of the United States Armed Forces and all other Americans deserve to know whether the deployment of the Armed Forces for the use of military force under a congressional authorization remains necessary and aligned with current threats:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the “Authorization for Use of Military Force Resolution of 2023”.

SEC. 2. REPEAL OF EXISTING AUTHORIZATION FOR USE OF MILITARY FORCE.

(a) IN GENERAL.—The Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224; 50 U.S.C. 1541 note) is hereby repealed.

(b) EFFECTIVE DATE.—This section shall take effect on the date that is 180 days after the date of the enactment of this joint resolution.

SEC. 3. AUTHORIZATION FOR USE OF MILITARY FORCE.

(a) AUTHORIZATION.—
(1) In general.—To the extent necessary to defend against a direct and substantial armed attack against the United States or a threat of such armed attack by any of the entities described in paragraph (2), the President is authorized to use necessary and appropriate force against such entities.

(2) Entities described.—The entities described in this paragraph are the following:

(A) The al Qaeda organization that is based in Afghanistan.

(B) The Islamic State Khorasan organization that is based in Afghanistan.

(C) The Islamic State of Iraq and Syria that is based in Iraq and Syria.

(b) War Powers Resolution Requirements.—

(1) Specific statutory authorization.—Consistent with section 8(a)(1) of the War Powers Resolution (50 U.S.C. 1547(a)(1)), Congress declares that subsection (a) is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).

(2) Applicability of other requirements.—Nothing in this joint resolution supersedes
any requirement of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(c) **APPLICABILITY IN CHANGED CIRCUMSTANCES.**—

The authority provided in subsection (a)—

(1) may not be construed to cease to apply with respect to an entity described in such subsection if the entity adopts a different name than the name specified in such subsection if—

(A) the President notifies the appropriate congressional committees and leadership not later than 60 days after determining that the name has changed; and

(B) the President determines that the entity has the same leadership, membership, and mission and continues to pose a direct and substantial threat of armed attack against the United States as the entity had at the time of the name change;

(2) shall not apply to an entity that emerges as a result of a division of an entity described in such subsection, unless the President certifies to the appropriate congressional committees and leadership not later than 60 days after determining that a division occurred that—
(A) the entity that emerged has the same basic characteristics as the entity from which it formed as a result of division, including with respect to its leadership, membership, and mission;

(B) the entity that emerged retains the intent and capability of posing a direct and substantial threat of armed attack the United States; and

(C) the use of force against the entity that emerged remains necessary to respond to such threat of armed attack; and

(3) shall not apply to an entity that is not described in such subsection, whether or not the entity is involved in an armed conflict against a force of a United States ally or partner or is an affiliate, associated force, or successor entity of an entity described in such subsection.

(d) SOLE SOURCE OF AUTHORITY.—Notwithstanding any other provision of law, the authority provided in subsection (a) shall be the sole statutory authority to use force or direct the use of force against the entities to which such subsection applies. No additional authority to use force or direct the use of force against the entities to which subsection (a) applies shall be inferred from any provision
of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically provides for authority to use force or direct the use of force against the entities to which subsection (a) applies and states that it is intended to constitute additional authority within the meaning of this joint resolution.

(e) Treaty Commitments, Law of Armed Conflict, and Territorial Integrity of States.—The authority provided in subsection (a) shall not be used in a manner inconsistent with the treaty obligations of the United States, the law of armed conflict, or in countries from which there is no armed attack emanating.

(f) Report Pursuant to War Powers Resolution.—Any use of force against an entity that is not described in subsection (a) or otherwise authorized by statute shall be reported to the Speaker of the House of Representatives and the President pro tempore of the Senate as an introduction into hostilities pursuant to section 4(a)(1) of the War Powers Resolution, and shall be subject to the requirements of the War Powers Resolution as such.

(g) Effective Date.—This section shall take effect on the date that is 180 days after the date of the enactment of this joint resolution.
SEC. 4. REPORT.
(a) IN GENERAL.—Not later than one year after the date of the enactment of this joint resolution, and annually thereafter for four years, the Secretary of Defense, the Secretary of State, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the heads of any other relevant Federal departments and agencies shall jointly submit to the appropriate congressional committees and leadership a report on the exercise of the authority provided in section 3(a). The initial report required by this subsection shall address the time period since the date of the enactment of this joint resolution and each subsequent report required by this subsection shall address the time period since the date of submission of the most recent prior report required by this subsection.

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall including the following:

(1) For each entity against which the United States conducted activities pursuant to this joint resolution:

(A) A description of any force used against such entity, the timeframes and geographic areas within countries in which such force was used, whether or not each such area is designated an area of active hostilities, and the legal and factual basis for determining that the
authority provided in this joint resolution applied with respect to the force used against such entity, including the United States constitutional and statutory basis and whether such use is consistent with the obligations of the United States under its treaty obligations and the law of armed conflict.

(B) The domains, including land, sea, air, cyber, space, or any other domains, in which operations were conducted against such entity, the nature of these operations, and whether such operations were conducted remotely.

(C) Lists and descriptions of any operations against high value targets, any sensitive military operations (as such term is defined in section 130f of title 10, United States Code), and any sensitive military cyber operations (as such term is defined in section 395 of title 10, United States Code) conducted with respect to such entity.

(D) Whether any force used against such entity was a function of deliberate or dynamic targeting and the number of combatant casualties, disaggregated by country, in connection with force used.
(E) Assessments of the extent to which such entity posed a direct and substantial threat of an armed attack against the United States at the time force was used, the extent to which such entity continues to pose such a threat, and whether the force used against such entity helped to protect against such threat, including the metrics used for such assessments.

(F) Whether and to what extent such entity used force against United States forces.

(2) An identification and description of the involvement of any multilateral forces, multilateral organizations, ally or partner countries, or ally or partner forces in activities conducted pursuant to this joint resolution, including a description of any United States activities related to training, equipping, advising, assisting, or accompanying any ally or partner force with respect to activities against entity covered in section 3(a), including identification of each such ally or partner force, each entity covered under section 3(a) against with such ally or partner force engaged in armed conflict, and any other entity against which such ally or partner force engaged in armed conflict.
(3) A description of the civilian casualties resulting from activities conducted pursuant to this joint resolution, including for each such entity the number of civilian casualties, disaggregated by country, in connection with force used by the United States against such entity, as determined by—

(A) the United States Government; and

(B) credible and reliable nongovernmental entities.

(4) An explanation for the differences, if any, between the number of civilian casualties reported pursuant to paragraph (3)(A) and the number of civilian casualties reported pursuant to paragraph (3)(B), the standard of proof the United States government used to make its assessment and its criteria for distinguishing between combatants and civilians.

(5) Descriptions of the mechanisms used to prevent, limit, investigate, and mitigate civilian harm in connection with any force used against such entity, including descriptions of any ex gratia payments by the United States to those harmed as a result of United States, allied, partnered, or coalition operations.

(6) An assessment of whether any ally or partner force with which the United States conducts
joint operations under this authorization may have violated the law of armed conflict, including in its involvement in detention operations, during the time period since submittal of the most recent report pursuant to this section and a description of the steps the United States is taking to address any such violations.

(7) A description of the diplomatic, development, and humanitarian objectives, strategy, and activities by which the United States intends to reduce extremism, violence, and fragility relative to each such entity in order to create the conditions for the end of use of United States military force against such entity, including the following:

(A) How the United States has and plans to—

   (i) create or improve inclusive, transparent, and accountable power structures, including effective, legitimate, and resilient national and sub-national institutions;
   
   (ii) promote strong foundations for human rights, rule of law, and equal access to justice;
   
   (iii) build resilience among relevant segments of the local population to resist
terrorist radicalization and recruitment
and violent extremist ideology by address-
ing their appeal; and

(iv) support peacebuilding and conflict
resolution efforts, including through en-
gagement with local civil society.

(B) The roles of each relevant Federal de-
partment or agency in the activities described in

subparagraph (A).

(C) How the use of force by the United
States and any ally or partner force against en-
tities covered in section 3(a) in such country af-
facts achievement of the objectives outlined this
paragraph.

(D) The outcome metrics used to assess
progress towards the objectives described in this
paragraph and an assessment of progress on
each such metric.

(E) A strategy to sustain political, secu-
ry, and development gains relative to each
such entity once the United States no longer
uses force against such entity.

(8) A comprehensive and current description,
both for the reporting period and in aggregate as of
the date of submittal, of—
(A) amounts expended by the United States for and in support of military operations and other activities pursuant to this joint resolution; and

(B) United States military personnel, United States civilian personnel, and United States contractors involved in activities against such entity, including the numbers located in each foreign country, their missions, and assessments of progress towards completing those missions during the reporting period, as well as the outcome metrics used to assess such progress.

(9) A description of any other force that was used or any other significant activities that were conducted in connection with the authority provided in this joint resolution, as well as any other matters the President may consider appropriate.

(c) FORM.—

(1) IN GENERAL.—The report required by subsection (a) shall be submitted in unclassified form.

(2) CLASSIFIED FORM.—The report required by subsection (a) may contain a classified annex if the President determines it is necessary to protect the national security of the United States. Any such
annex shall be separated from the unclassified report and accompanied by unclassified written findings to support such a determination.

(d) BRIEFINGS.—The Secretary of Defense, the Secretary of State, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the heads of any other relevant Federal departments and agencies shall provide a briefing to any of the appropriate congressional committees or leadership upon request of such committee or leadership, but not less often than every 180 days, on the activities undertaken pursuant to this joint resolution.

SEC. 5. SUNSET; REAUTHORIZATION REQUIREMENTS.

(a) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), the authority provided in section 3(a) shall terminate on the date that is four years after the date of the enactment of this joint resolution, unless reauthorized by an Act of Congress enacted after the date of the enactment of this joint resolution.

(2) LIMITED WIND-DOWN PERIOD.—For such time as may be necessary, but not to exceed 180 days after the date described in paragraph (1), the authority provided in section 3(a) may be exercised
only as necessary to end the deployment or engagement of United States Armed Forces.

(b) REAUTHORIZATION REQUIREMENTS.—

(1) STRATEGY.—Not later than one year after the date of the enactment of this joint resolution, and annually thereafter for four years, the President, in order to inform any potential reauthorization of the authority provided in section 3(a), shall submit to the appropriate congressional committees and leadership a strategy for—

(A) defeating or sufficiently degrading each entity described in section 3(a)(2); and

(B) creating the conditions under which the exercise of such authority is no longer necessary to defend against a direct and substantial armed attack against the United States or a threat of such armed attack by such entity.

(2) REPORT.—

(A) IN GENERAL.—Not later than 90 days before the date described in subsection (a)(1), the President shall submit to the appropriate congressional committees and leadership a report on any potential reauthorization of the authority provided in section 3(a).
(B) MATTERS TO BE INCLUDED.—The report required by subparagraph (A) shall include—

(i) a certification of whether each entity described in section 3(a)(2) continues to pose a direct and substantial threat of armed attack against the United States;

(ii) evidence to support the certification required by clause (i), including relevant intelligence regarding the current intentions and capabilities of each such entity; and

(iii) any recommendations the President determines to be necessary for the extension or modification of such authority, including any recommendations and justifications for adding or removing entities from the list of entities described in section 3(a)(2).

(3) BRIEFING.—The President shall brief the appropriate congressional committees and leadership on any recommendations for the reauthorization of the authority provided in section 3(a) that are included in the report required by paragraph (2).
SEC. 6. APPROPRIATE CONGRESSIONAL COMMITTEES AND LEADERSHIP DEFINED.

In this joint resolution, the term “appropriate congressional committees and leadership” means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Appropriations, the Speaker, the majority leader, and the minority leader of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Armed Services, the Select Committee on Intelligence, the Committee on Appropriations, the majority leader, and the minority leader of the Senate.