

115TH CONGRESS
1ST SESSION

S. J. RES. 43

To authorize the use of United States Armed Forces against al-Qaeda, the Taliban, and the Islamic State of Iraq and Syria, and associated persons or forces, that are engaged in hostilities against the United States, the Armed Forces, or its other personnel.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2017

Mr. FLAKE (for himself and Mr. Kaine) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JOINT RESOLUTION

To authorize the use of United States Armed Forces against al-Qaeda, the Taliban, and the Islamic State of Iraq and Syria, and associated persons or forces, that are engaged in hostilities against the United States, the Armed Forces, or its other personnel.

Whereas the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) was approved on September 14, 2001;

Whereas the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 50 U.S.C. 1541 note) was approved on October 16, 2002;

Whereas, over the course of more than 15 years, the Authorization for Use of Military Force has been used by the

executive branch in at least 37 instances to justify sending the Armed Forces to 14 nations across the world to take action against terrorist organizations and for other purposes;

Whereas the purpose of the Authorization for Use of Military Force, to authorize military action against the perpetrators responsible for the attacks launched against the United States on September 11, 2001, remains valid and critical to our national security;

Whereas the purpose of the Authorization for Use of Military Force Against Iraq Resolution of 2002, to address the threat posed by the regime of Saddam Hussein in Iraq, is no longer valid;

Whereas the overwhelming majority of members of the 115th Congress were not present when the debate and vote on the Authorization for Use of Military Force took place during the 107th Congress;

Whereas the scope and purpose of the Authorization for Use of Military Force is in need of review and refinement in light of the lessons learned since its passage;

Whereas the Islamic State of Iraq and Syria grew out of al-Qaeda and is now its own organization that poses a grave threat to the people of the United States, the people and territorial integrity of Iraq and Syria, regional stability, and the national security interests of the United States and its allies and partners; and

Whereas the United States should take action against non-state, transnational actors in a disciplined way that meets the current threat environment and is consistent with the authorities provided under Articles I and II of the Constitution of the United States, the War Powers

Resolution (50 U.S.C. 1541 et seq.), and international law: Now, therefore, be it

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

3 **SECTION 1. SHORT TITLE.**

4 This joint resolution may be cited as the “Authoriza-
 5 tion for Use of Military Force Against al-Qaeda, the
 6 Taliban, and the Islamic State of Iraq and Syria”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this joint resolution are as follows:

9 (1) To update the Authorization for Use of
 10 Military Force (Public Law 107–40; 50 U.S.C. 1541
 11 note) in order to provide legal authority for military
 12 action against al-Qaeda, the Taliban, and the Is-
 13 lamic State of Iraq and Syria due to the continued
 14 threat they pose to the United States.

15 (2) To establish a process for oversight by Con-
 16 gress of military action against persons or forces as-
 17 sociated with al-Qaeda, the Taliban, or the Islamic
 18 State of Iraq and Syria that pose a direct threat to
 19 the United States.

20 (3) To repeal the Authorization for Use of Mili-
 21 tary Force and the Authorization for Use of Military
 22 Force Against Iraq Resolution of 2002 (Public Law
 23 107–243; 50 U.S.C. 1541 note).

1 **SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES**
2 **ARMED FORCES TO PREVENT FUTURE ACTS**
3 **OF INTERNATIONAL TERRORISM AGAINST**
4 **THE UNITED STATES.**

5 (a) AUTHORIZATION.—In order to prevent any future
6 acts of international terrorism against the United States,
7 the President is authorized to use all necessary and appro-
8 priate force against—

9 (1) al-Qaeda and the Taliban;

10 (2) the Islamic State of Iraq and Syria (also
11 known as the Islamic State of Iraq and the Levant,
12 the Islamic State, Daesh, ISIS, and ISIL); and

13 (3) associated persons or forces as provided in
14 section 4.

15 (b) WAR POWERS RESOLUTION REQUIREMENTS.—

16 (1) SPECIFIC STATUTORY AUTHORIZATION.—
17 Consistent with section 8(a)(1) of the War Powers
18 Resolution (50 U.S.C. 1547(a)(1)), Congress de-
19 clares that this section is intended to constitute spe-
20 cific statutory authorization within the meaning of
21 section 5(b) of the War Powers Resolution (50
22 U.S.C. 1544(b)).

23 (2) APPLICABILITY OF OTHER REQUIRE-
24 MENTS.—Nothing in this joint resolution supersedes
25 any requirements of the War Powers Resolution (50
26 U.S.C. 1541 et seq.).

1 **SEC. 4. ASSOCIATED PERSONS OR FORCES.**

2 (a) ASSOCIATED PERSONS AND FORCES.—For pur-
3 poses of section 3(a)(3), the term “associated persons or
4 forces” means any person or force, other than a sovereign
5 nation, that—

6 (1) is a part of, or substantially supports al-
7 Qaeda, the Taliban, or the Islamic State of Iraq and
8 Syria; and

9 (2) is engaged in hostilities against the United
10 States, its Armed Forces, or its other personnel.

11 (b) INITIAL ASSOCIATED PERSONS OR FORCES.—

12 (1) IN GENERAL.—For purposes of section
13 3(a)(3), the term “associated persons or forces” in-
14 cludes any person or force meeting the definition in
15 subsection (a) that is specified in the report under
16 paragraph (2).

17 (2) REPORT.—Not later than 60 days after the
18 date of the enactment of this joint resolution, the
19 President shall submit to Congress a report speci-
20 fying the persons or forces (other than the groups
21 al-Nusra Front (also known as Jabhat al-Nusra and
22 Jabhat Fateh al-Sham), Khorasan Group, al-Qaeda
23 in the Arabian Peninsula, and al-Shabaab, which
24 Congress considers to be associated persons or forces
25 for purposes of this joint resolution) that are associ-

1 ated persons or forces under subsection (a) as of the
2 date of the enactment of this joint resolution.

3 (3) DISAPPROVAL.—The treatment of persons
4 or forces specified in the report under paragraph (2)
5 as associated persons or forces under subsection (a)
6 is subject to disapproval in accordance with section
7 6.

8 (c) ADDITIONAL ASSOCIATED PERSONS OR
9 FORCES.—

10 (1) IN GENERAL.—For purposes of section
11 3(a)(3), the term “associated persons or forces”
12 shall also include any person or force meeting the
13 definition in subsection (a) that is specified in a re-
14 port under paragraph (2).

15 (2) REPORT.—Upon a determination by the
16 President that any persons or forces not previously
17 treated as associated persons or forces for purposes
18 of section 3(a)(3) shall be treated under this sub-
19 section as associated persons or forces, the President
20 shall submit to Congress a report specifying that
21 such persons or forces are to be treated under this
22 subsection as associated persons or forces. Persons
23 or forces may not be specified in such a report if
24 such persons or forces have previously been dis-

1 approved in accordance with section 6 for treatment
2 as associated persons or forces under subsection (a).

3 (3) DISAPPROVAL.—The treatment of persons
4 or forces specified in a report under paragraph (2)
5 as associated persons or forces under subsection (a)
6 is subject to disapproval in accordance with section
7 6.

8 **SEC. 5. COUNTRIES IN WHICH OPERATIONS AUTHORIZED.**

9 Subject to disapproval in accordance with section 6,
10 the use of force authorized by section 3 may take place
11 in a country (other than Afghanistan, Iraq, Syria, Soma-
12 lia, Libya, or Yemen) if the President submits to Congress
13 a report on the use of force in such country that includes
14 the following;

15 (1) The name of the country in which the use
16 of force will take place.

17 (2) A description of the presence in the country
18 of al-Qaeda, the Taliban, or the Islamic State of
19 Iraq and Syria, or associated persons or forces cur-
20 rently covered by section 4.

21 (3) A justification why the use of force in the
22 country is necessary and appropriate.

1 **SEC. 6. EXPEDITED PROCEDURES FOR JOINT RESOLUTION**
 2 **OF DISAPPROVAL OF USE OF FORCE AGAINST**
 3 **INITIAL OR ADDITIONAL ASSOCIATED PER-**
 4 **SONS OR FORCES OR IN OTHER COUNTRIES.**

5 (a) RESOLUTION OF DISAPPROVAL.—For purposes of
 6 this section, the term “resolution” means only a joint reso-
 7 lution of the two Houses of Congress—

8 (1) the title of which is as follows: “A joint res-
 9 olution of disapproval of an addition by the Presi-
 10 dent to the scope of the Authorization for Use of
 11 Military Force against al-Qaeda, the Taliban, and
 12 the Islamic State of Iraq and Syria.”;

13 (2) which does not have a preamble; and

14 (3) either—

15 (A) with respect to a report submitted
 16 under section 4(b) or 4(c), the matter after the
 17 resolving clause of which is as follows: “That
 18 Congress does not approve the use of force
 19 against _____ under the Authoriza-
 20 tion for Use of Military Force against al-Qaeda,
 21 the Taliban, and the Islamic State of Iraq and
 22 Syria.”, the blank space being filled with the
 23 persons or forces concerned; or

24 (B) with respect to a report submitted
 25 under section 5, the matter after the resolving
 26 clause of which is as follows: “That Congress

1 does not approve the use of force in
 2 _____ under the Authorization for
 3 Use of Military Force against al-Qaeda, the
 4 Taliban, and the Islamic State of Iraq and
 5 Syria.”, the blank space being filled with the
 6 country concerned.

7 (b) CONSIDERATION IN THE SENATE.—

8 (1) REFERRAL.—Any resolution introduced in
 9 the Senate shall be referred to the Committee on
 10 Foreign Relations.

11 (2) IN GENERAL.—If the committee has not re-
 12 ported a resolution within 10 session days after the
 13 date of referral of the resolution, the committee shall
 14 be discharged from further consideration of the reso-
 15 lution and the resolution shall be placed on the ap-
 16 propriate calendar.

17 (3) PROCEEDING TO CONSIDERATION.—Not-
 18 withstanding Rule XXII of the Standing Rules of
 19 the Senate, it is in order, not later than 2 days of
 20 session after the date on which the resolution is re-
 21 ported or discharged from the committees, for the
 22 Majority Leader of the Senate or the Majority Lead-
 23 er’s designee to move to proceed to the consideration
 24 of the resolution. Thereafter, it shall be in order for
 25 any Member of the Senate to move to proceed to the

1 consideration of the resolution at any time. A motion
2 to proceed is not in order if a previous motion to the
3 same effect has been disposed of. All points of order
4 against the motion to proceed to the resolution are
5 waived. The motion to proceed is not debatable. The
6 motion to proceed to the resolution is not subject to
7 a motion to postpone. A motion to reconsider the
8 vote by which the motion to proceed is agreed to or
9 disagreed to shall not be in order.

10 (4) WAIVER OF ALL POINTS OF ORDER.—All
11 points of order against the resolution (and against
12 consideration of the resolution) are waived.

13 (5) RULES TO COORDINATE ACTION WITH
14 OTHER HOUSE.—If, before the passage by one
15 House of a resolution of that House, the House re-
16 ceives from the other House a resolution identical to
17 a resolution introduced in that House, then the fol-
18 lowing procedures shall apply:

19 (A) The resolution of the other House shall
20 not be referred to a committee.

21 (B) The procedure in the receiving House
22 shall be the same as if no resolution has been
23 received from the other House until the vote on
24 passage, when the identical resolution received

1 from the other House shall supplant the resolu-
2 tion of the receiving House.

3 (C) If one House fails to introduce or con-
4 sider a resolution identical to one passed by the
5 other House, the resolution of the other House
6 shall be entitled to expedited floor procedures
7 under this subsection.

8 (D) If, following passage of the resolution
9 in the Senate, the Senate receives an identical
10 resolution from the House of Representatives,
11 the companion measure shall not be debatable.
12 The vote on passage of the identical resolution
13 in the Senate shall be considered to be the vote
14 on passage of the resolution received from the
15 House of Representatives.

16 (c) ACTION AFTER PASSAGE.—

17 (1) IN GENERAL.—If Congress passes a resolu-
18 tion, the period beginning on the date the President
19 is presented with the resolution and ending on the
20 date the President takes action with respect to the
21 resolution shall be disregarded in computing the 60-
22 calendar-day period described in section 7(b).

23 (2) VETOES.—If the President vetoes a resolu-
24 tion—

(A) the period beginning on the date the President vetoes the resolution and ending on the date the Congress receives the veto message with respect to the resolution shall be disregarded in computing the 60-calendar-day period described in section 7(b); and

(B) debate in the Senate of any veto message with respect to the resolution, including all debatable motions and appeals in connection with the resolution, shall be limited to 10 hours, to be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate or their designees.

SEC. 7. EFFECT OF ENACTMENT OF JOINT RESOLUTION OF DISAPPROVAL OF USE OF FORCE AGAINST INITIAL OR ADDITIONAL ASSOCIATED PERSONS OR FORCES OR IN OTHER COUNTRIES.

(a) IN GENERAL.—

(1) AGAINST INITIAL OR ADDITIONAL ASSOCIATED PERSONS OR FORCES.—Subject to subsection (b), upon the enactment by Congress of a resolution described in section 6(a) with respect to the use of force pursuant to section 3 against initial associated persons or forces pursuant to 4(b), or against additional associated persons or forces pursuant to sec-

1 tion 4(c), the authority under this joint resolution to
2 use force against such persons or forces shall cease.

3 (2) IN OTHER COUNTIES.—Subject to sub-
4 section (b), upon the enactment by Congress of a
5 resolution described in section 6(a) with respect to
6 the use of force pursuant to section 3 in another
7 country pursuant to section 5, the authority under
8 this joint resolution to use force in that country
9 shall cease.

10 (b) DEADLINE FOR EFFECTIVENESS.—Except as
11 provided in section 6(c), a resolution described in section
12 6(a) is effective only if enacted during the 60-calendar-
13 day period beginning on the date on which the President
14 submits to Congress the report on the associated persons
15 or forces concerned under section 4(b) or 4(c) or on the
16 country concerned under section 5, as applicable.

17 (c) AUTHORIZATION.—The authority sought by the
18 President pursuant to the report under section 4(b), to
19 specify initial associated persons or forces to be covered
20 by section 3(a)(3), pursuant to a report under section
21 4(c), to add additional associated persons or forces to the
22 associated persons or forces currently covered by section
23 3(a)(3), or pursuant to a report under section 5, to au-
24 thorize the use of force under section 3 in a country or
25 countries not explicitly set forth in section 5, shall exist

1 as of the date of the report concerned and continue until
2 a resolution of disapproval described in section 6(a), if
3 any, is enacted by Congress in accordance with section 6.

4 **SEC. 8. DURATION OF AUTHORIZATION.**

5 (a) IN GENERAL.—In order to encourage periodic re-
6 view of the use of force authorized by this joint resolution,
7 the authorization for use of force in section 3 shall termi-
8 nate five years after the date of the enactment of this joint
9 resolution, unless reauthorized by Congress.

10 (b) REAUTHORIZATION.—Before the expiration of
11 this joint resolution, this joint resolution may be reauthor-
12 ized pursuant to section 11.

13 **SEC. 9. REPEAL OF AUTHORIZATION FOR USE OF MILITARY**
14 **FORCE.**

15 The Authorization for Use of Military Force (Public
16 Law 107–40; 50 U.S.C. 1541 note) is repealed, effective
17 60 days after the date of the enactment of this joint reso-
18 lution.

19 **SEC. 10. REPEAL OF AUTHORIZATION FOR USE OF MILI-**
20 **TARY FORCE AGAINST IRAQ RESOLUTION OF**
21 **2002.**

22 The Authorization for Use of Military Force Against
23 Iraq Resolution of 2002 (Public Law 107–243; 50 U.S.C.
24 1541 note) is repealed, effective 60 days after the date
25 of the enactment of this joint resolution.

1 **SEC. 11. EXPEDITED PROCEDURES FOR REAUTHORIZATION**
2 **OF AUTHORIZATION FOR THE USE OF MILI-**
3 **TARY FORCE.**

4 (a) RESOLUTION OF REAUTHORIZATION.—For pur-
5 poses of this section, the term “resolution” also means a
6 joint resolution of the two Houses of Congress—

7 (1) which is introduced not later than 180 be-
8 fore the date of the expiration of this joint resolution
9 in accordance with section 8(a);

10 (2) the title of which is as follows: “A joint res-
11 olution to reauthorize the Authorization for Use of
12 Military Force against al-Qaeda, the Taliban, and
13 the Islamic State of Iraq and Syria.”;

14 (3) which does not have a preamble; and

15 (4) the matter after the enacting clause of
16 which is as follows: “The Authorization for the Use
17 of Military Force against al-Qaeda, the Taliban, and
18 the Islamic State of Iraq and Syria is amended in
19 section 8(a) by striking ‘5 years’ and inserting ‘10
20 years’.”.

21 (b) EXPEDITED PROCEDURES.—Consideration of the
22 resolution described in subsection (a) shall be governed by
23 the procedures set forth in section 6, as if the resolution
24 described in subsection (a) were a resolution described in
25 section 6(a), including the procedures relating to veto mes-
26 sages specified in section 6(c).

1 **SEC. 12. REPORTS TO CONGRESS.**

2 (a) STRATEGY.—Not later than 90 days after the
3 date of the enactment of this joint resolution, the Presi-
4 dent shall submit to the appropriate committees and lead-
5 ership of Congress a report setting forth a comprehensive
6 strategy of the United States, encompassing military, eco-
7 nomic, humanitarian, and diplomatic capabilities, to pro-
8 tect the United States from al-Qaeda, the Taliban, and
9 the Islamic State of Iraq and Syria in their fight to defeat
10 such organizations.

11 (b) IMPLEMENTATION OF STRATEGY.—

12 (1) BIENNIAL REPORTS.—Not later than 180
13 days after the date of the enactment of this joint
14 resolution, and every 180 days thereafter, the Presi-
15 dent shall submit to the appropriate committees and
16 leadership of Congress a written report setting forth
17 a current comprehensive assessment of the imple-
18 mentation of the strategy required by subsection (a),
19 including a description of any substantive change to
20 the strategy (including the reasons for the change
21 and the effect of the change on the rest of the strat-
22 egy).

23 (2) ELEMENTS.—Each report under this sub-
24 section shall include a description of the specific ac-
25 tions taken pursuant to this joint resolution to ad-
26 dress the threat to the United States posed by

1 transnational terrorist organizations and associated
2 persons or forces, including—

3 (A) a description of the specific authorities
4 relied upon for such actions;

5 (B) the persons and forces targeted by
6 such actions;

7 (C) the nature and location of such ac-
8 tions; and

9 (D) an evaluation of the effectiveness of
10 such actions.

11 (c) QUARTERLY REPORTS ON OPERATIONS.—Not
12 later than 90 days after the date of the enactment of this
13 joint resolution, and every 90 days thereafter, the Presi-
14 dent shall submit to Congress a report setting forth the
15 following:

16 (1) A list of the organizations, persons, and
17 forces against which operations were conducted
18 under the authority of this joint resolution during
19 the 90-day period ending on the date of the report.

20 (2) A list of all foreign countries in which the
21 United States conducted operations under the au-
22 thority of this joint resolution during such 90-day
23 period.

24 (d) CLASSIFIED ANNEX.—Any report submitted
25 under this section may include a classified annex.

1 (e) APPROPRIATE COMMITTEES AND LEADERSHIP OF
2 CONGRESS DEFINED.—In this section, the term “appro-
3 priate committees and leadership of Congress” means—

4 (1) the Committee on Foreign Relations, the
5 Committee on Armed Services, the Select Committee
6 on Intelligence, and the Committee on Appropria-
7 tions of the Senate;

8 (2) the Majority Leader and the Minority Lead-
9 er of the Senate;

10 (3) the Committee on Foreign Affairs, the
11 Committee on Armed Services, the Permanent Select
12 Committee on Intelligence, and the Committee on
13 Appropriations of the House of Representatives; and

14 (4) the Speaker of the House of Representa-
15 tives and the Majority Leader and the Minority
16 Leader of the House of Representatives.

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