

113TH CONGRESS
2^D SESSION

S. J. RES. 46

To declare that a state of war exists between the organization referring to itself as the Islamic State and the Government and the people of the United States, and to make provisions to prosecute the same.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2014

Mr. PAUL introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JOINT RESOLUTION

To declare that a state of war exists between the organization referring to itself as the Islamic State and the Government and the people of the United States, and to make provisions to prosecute the same.

Whereas article I, section 8, of the United States Constitution provides, “The Congress shall have the Power to . . . declare war”;

Whereas President George Washington, who presided over the Constitutional Convention, lectured: “The Constitution vests the power of declaring war with Congress. Therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure.”;

Whereas James Madison, father of the Constitution, elaborated in a letter to Thomas Jefferson: “The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war in the Legislature.”;

Whereas James Madison wrote in his Letters of Helvidius: “In this case, the constitution has decided what shall not be deemed an executive authority; though it may not have clearly decided in every case what shall be so deemed. The declaring of war is expressly made a legislative function.”;

Whereas the organization referring to itself as the Islamic State has declared war on the United States and its allies; and

Whereas the Islamic State presents a clear and present danger to United States diplomatic facilities in the region, including our embassy in Baghdad, Iraq, and consulate in Erbil, Iraq: 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 “Declaration

5 of War against the Organization known as the Islamic

6 State”.

1 **SEC. 2. DECLARATION OF A STATE OF WAR BETWEEN THE**
2 **PEOPLE AND GOVERNMENT OF THE UNITED**
3 **STATES AGAINST THE ORGANIZATION**
4 **KNOWN AS THE ISLAMIC STATE.**

5 (a) **DECLARATION.**—The state of war between the
6 United States and the organization referring to itself as
7 the Islamic State, also known as the Islamic State of Iraq
8 and the Levant (ISIL) and the Islamic State of Iraq and
9 Syria (ISIS), which has been thrust upon the United
10 States, is hereby formally declared pursuant to article I,
11 section 8, clause 11, of the United States Constitution.

12 (b) **AUTHORIZATION.**—The President is hereby au-
13 thorized and directed to use the Armed Forces of the
14 United States to protect the people and facilities of the
15 United States in Iraq and Syria against the threats posed
16 thereto by the organization referring to itself as the Is-
17 lamic State, also known as the Islamic State of Iraq and
18 the Levant (ISIL) and the Islamic State of Iraq and Syria
19 (ISIS).

20 (c) **RULES OF CONSTRUCTION.**—

21 (1) **SCOPE OF AUTHORITY.**—Nothing in this
22 section shall be construed as declaring war or au-
23 thORIZING force against any organization—

24 (A) other than the organization referring
25 to itself as the Islamic State, also known as the
26 Islamic State of Iraq and the Levant (ISIL)

1 and the Islamic State of Iraq and Syria (ISIS);
2 or

3 (B) based on affiliation with the organiza-
4 tion referring to itself as the Islamic State, also
5 known as the Islamic State of Iraq and the Le-
6 vant (ISIL) and the Islamic State of Iraq and
7 Syria (ISIS).

8 (2) NO EXTRAORDINARY AUTHORITY.—Nothing
9 in this section shall be construed as granting the ex-
10 ecutive branch any powers beyond those expressly
11 provided under subsection (b).

12 (3) LIMITATION ON USE OF GROUND COMBAT
13 FORCES.—Nothing in this section shall be construed
14 as authorizing the use of ground combat forces ex-
15 cept—

16 (A) as necessary for the protection or res-
17 cue of members of the United States Armed
18 Forces or United States citizens from imminent
19 danger posed by the organization referring to
20 itself as the Islamic State, also known as the
21 Islamic State of Iraq and the Levant (ISIL)
22 and the Islamic State of Iraq and Syria (ISIS);

23 (B) for limited operations against high
24 value targets; or

1 (C) as necessary for advisory and intel-
2 ligence gathering operations.

3 (d) WAR POWER RESOLUTION REQUIREMENTS.—

4 (1) SPECIFIC STATUTORY AUTHORIZATION.—

5 Consistent with section 8(a)(1) of the War Powers
6 Resolution (50 U.S.C. 1547(a)(1)), Congress de-
7 clares that this section is intended to constitute spe-
8 cific statutory authorization within the meaning of
9 section 5(b) of the War Powers Resolution (50
10 U.S.C. 1544(b)).

11 (2) APPLICABILITY OF OTHER REQUIRE-
12 MENTS.—Nothing in this resolution supersedes any
13 requirement of the War Powers Resolution (50
14 U.S.C. 1541 et seq.).

15 **SEC. 3. REPEAL OF PRIOR AUTHORIZATION FOR USE OF**
16 **UNITED STATES ARMED FORCES AGAINST**
17 **IRAQ.**

18 The authorization for the Use of Military Force
19 Against Iraq Resolution of 2002 (Public Law 107–243;
20 50 U.S.C. 1541 note) is hereby repealed.

21 **SEC. 4. NO EXISTING AUTHORITY.**

22 The Authorization for the Use of Military Force
23 (Public Law 107–40; 50 U.S.C. 1541 note) does not pro-
24 vide any authority for the use of military force against

1 the organization referring to itself as the Islamic State,
2 and shall not be construed as providing such authority.

3 **SEC. 5. SUNSET OF 2001 AUTHORIZATION FOR THE USE OF**
4 **MILITARY FORCE.**

5 The Authorization for the Use of Military Force
6 (Public Law 107–40; 50 U.S.C. 1541 note) shall termi-
7 nate on the date that is one year after the date of the
8 enactment of this joint resolution.

9 **SEC. 6. EXPIRATION.**

10 The declaration and authorization in this joint resolu-
11 tion shall expire on the date that is one year after the
12 date of the enactment of this joint resolution.

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