S. J. RES. 63

To direct the removal of United States Armed Forces from hostilities against the Islamic Republic of Iran that have not been authorized by Congress.

IN THE SENATE OF THE UNITED STATES

JANUARY 3, 2020

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

JOINT RESOLUTION

To direct the removal of United States Armed Forces from hostilities against the Islamic Republic of Iran that have not been authorized by Congress.

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Congress has the sole power to declare war under article I, section 8, clause 11 of the United States Constitution.

(2) Congress has not yet declared war upon, nor enacted a specific statutory authorization for use
of military force against, the Islamic Republic of Iran. The 2001 Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) against the perpetrators of the 9/11 attack and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 50 U.S.C. 1541 note) do not serve as a specific statutory authorization for war against Iran, and neither authorize any such action. The Trump Administration has acknowledged that neither act is specific statutory authorization for military action against Iran.

(3) President Donald J. Trump understands that Congress has not authorized war with Iran and has stated that he has the authority to initiate such military action without first going to Congress, as reported in The Hill on June 24, 2019.

(4) The conflict between the United States and the Islamic Republic of Iran constitutes, within the meaning of section 4(a) of the War Powers Resolution (50 U.S.C. 1543(a)), either hostilities or a situation where imminent involvement in hostilities is clearly indicated by the circumstances into which United States Armed Forces have been introduced.

(5) Section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)) states that “at any time that
United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs’.

(6) Section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c)) defines the introduction of the United States Armed Forces to include “the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged in, hostilities”.

(7) The United States Armed Forces have been introduced into hostilities, as defined by the War Powers Resolution, against Iran.

(8) Department of Defense officials have been warning for more than a year that the Trump Administration “maximum pressure campaign” against Iran, which has included economic, diplomatic and military pressure, is raising the risk of retaliation against United States troops and personnel. The
cycle of escalating back-and-forth violence between Iran and its proxies and the United States and its allies have proven their warnings correct.

(9) The question of whether United States forces should be engaged in armed conflict against Iran should only be made following a full briefing to Congress and the American public of the issues at stake, a public debate in Congress, and a congressional vote as contemplated by the Constitution. The absence of such a deliberative approach is deeply unfair to members of the United States Armed Forces and other Americans whose lives are at risk in the event of hostilities between the United States and Iran.

(10) Section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a) provides that any joint resolution or bill to require the removal of United States Armed Forces engaged in hostilities without a declaration of war or specific statutory authorization shall be considered in accordance with the expedited procedures of section 601(b) of the International Security and Arms Export Control Act of 1976.
SEC. 2. REMOVAL OF UNITED STATES FORCES FROM HOSTILITIES AGAINST THE ISLAMIC REPUBLIC OF IRAN.

(a) Removal of Forces.—Pursuant to section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a), and in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, Congress hereby directs the President to remove United States Armed Forces from hostilities against the Islamic Republic of Iran or any part of its government or military, by not later than the date that is 30 days after the date of the enactment of this joint resolution unless explicitly authorized by a declaration of war or specific authorization for use of military force.

(b) Rule of Construction.—Nothing in this section shall be construed to prevent the United States from defending itself from imminent attack.