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(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R. _____

To prohibit the introduction of the Armed Forces into hostilities in North Korea without a declaration of war or explicit statutory authorization, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KHANNA introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit the introduction of the Armed Forces into hostilities in North Korea without a declaration of war or explicit statutory authorization, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Unconstitutional
5 Strike against North Korea Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The President is currently prohibited from
2 initiating a war or launching a first strike without
3 congressional approval under the Constitution and
4 Federal law.

5 (2) The Constitution, in Article I, Section 8,
6 grants Congress the sole power to declare war.

7 (3) George Washington wrote that “The con-
8 stitution vests the power of declaring war in Con-
9 gress; therefore no offensive expedition of impor-
10 tance can be undertaken until after they shall have
11 deliberated upon the subject and authorized such a
12 measure” (Letter from George Washington to Wil-
13 liam Moultrie, August 28, 1793).

14 (4) Alexander Hamilton wrote that “The Con-
15 gress shall have the power to declare war”; the plain
16 meaning of which is, that it is the peculiar and ex-
17 clusive duty of Congress, when the nation is at
18 peace, to change that state into a state of war”
19 (Hamilton Papers, Examination Number I, Decem-
20 ber 17, 1801).

21 (5) James Madison wrote that “The power to
22 declare war, including the power of judging the
23 causes of war, is fully and exclusively vested in the
24 legislature . . . the executive has no right, in any
25 case, to decide the question, whether there is or is

1 not cause for declaring war” (Madison Papers,
2 “Helvidius”, Number 4, September 14, 1793).

3 (6) Section 2(c) of the War Powers Resolution
4 (Public Law 93–148; 50 U.S.C. 1541) states that
5 “the constitutional powers of the President as Com-
6 mander-in-Chief to introduce United States Armed
7 Forces into hostilities, or into situations where im-
8 minent involvement in hostilities is clearly indicated
9 by the circumstances, are exercised only pursuant to
10 (1) a declaration of war, (2) specific statutory au-
11 thorization, or (3) a national emergency created by
12 attack upon the United States, its territories or pos-
13 sessions, or its armed forces”.

14 (7) The American people, America’s allies in
15 Asia, and the entire world have been deeply troubled
16 by escalating tensions on the Korean peninsula.

17 (8) Recent polling demonstrates that more than
18 two-thirds of the American people believe that the
19 United States should attack North Korea only if
20 North Korea attacks first.

21 (9) The United States has approximately
22 28,500 servicemembers stationed in South Korea,
23 who would be placed in grave danger if an active
24 military conflict were to erupt.

1 (10) On August 14, 2017, Chairman of the
2 U.S. Joint Chiefs of Staff, Marine Corps General
3 Joseph Dunford stated that “the United States mili-
4 tary’s priority is to support our government’s efforts
5 to achieve the denuclearization of the Korean Penin-
6 sula through diplomatic and economic pressure”.

7 (11) On August 10, 2017, Defense Secretary
8 James Mattis stated that armed conflict with North
9 Korea “would be catastrophic”.

10 **SEC. 3. SENSE OF CONGRESS IN SUPPORT OF A DIPLO-**
11 **MATIC RESOLUTION TO GROWING TENSIONS**
12 **WITH NORTH KOREA.**

13 It is the sense of Congress that—

14 (1) a conflict on the Korean peninsula would
15 have catastrophic consequences for—

16 (A) the American people;

17 (B) members of the United States Armed
18 Forces stationed in the region;

19 (C) United States interests;

20 (D) United States allies South Korea and
21 Japan;

22 (E) the long-suffering people of North
23 Korea; and

24 (F) global peace and security more broad-
25 ly;

1 (2) actions and statements that increase ten-
2 sions and could lead to miscalculation should be
3 avoided; and

4 (3) the President, in coordination with United
5 States allies, should explore and pursue every fea-
6 sible opportunity to—

7 (A) engage in talks with North Korea on
8 concrete steps to reduce tensions and improve
9 communication;

10 (B) initiate negotiations designed to
11 achieve a diplomatic agreement to halt and
12 eventually reverse North Korea's nuclear and
13 missile pursuits; and

14 (C) move toward denuclearization and a
15 permanent peace in the Korean peninsula.

16 **SEC. 4. PROHIBITION ON UNCONSTITUTIONAL MILITARY**
17 **STRIKES AGAINST NORTH KOREA.**

18 (a) IN GENERAL.—None of the funds appropriated
19 or otherwise made available to the Department of Defense
20 or to any other Federal department or agency may be used
21 to launch a military strike against North Korea or other-
22 wise introduce the Armed Forces into hostilities in North
23 Korea before the earlier of—

24 (1) the date on which Congress declares war on
25 North Korea; or

1 (2) the date of the enactment of an authoriza-
2 tion described in subsection (b).

3 (b) AUTHORIZATION OF MILITARY STRIKES.—An au-
4 thorization described in this subsection is an authorization
5 that meets the requirements of the War Powers Resolution
6 (50 U.S.C. 1541 et seq.) and that is enacted after the
7 date of the enactment of this Act.

8 (c) EXCEPTIONS.—The prohibition under subsection
9 (a) shall not apply with respect to the introduction of the
10 Armed Forces into hostilities—

11 (1) to repel a sudden attack on the United
12 States, its territories or possessions, or its armed
13 forces, or its allies; or

14 (2) to rescue or remove United States per-
15 sonnel.

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion may be construed to affect or alter the requirements
18 of the War Powers Resolution (50 U.S.C. 1541 et seq.)
19 or to relieve the Executive Branch of the restrictions or
20 reporting requirements therein.