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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To prevent an unconstitutional war against North Korea.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To prevent an unconstitutional war against North Korea.

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 War Against North Korea Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The President is currently prohibited from
9 initiating a war or launching a first strike without

1 congressional approval under the United States Con-
2 stitution and United States law.

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

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

12 (4) In Examination Number 1 of the Hamilton
13 Papers, dated December 17, 1801, Alexander Ham-
14 iltion wrote, “The Congress shall have the power to
15 declare war; the plain meaning of which is, that it
16 is the peculiar and exclusive duty of Congress, when
17 the nation is at peace, to change that state into a
18 state of war.”.

19 (5) James Madison wrote, in Madison Papers,
20 Helvidius, Number 4, dated September 14, 1793,
21 “The power to declare war, including the power of
22 judging the causes of war, is fully and exclusively
23 vested in the legislature ... the executive has no
24 right, in any case, to decide the question, whether
25 there is or is not cause for declaring war.”.

1 (6) Section 2(c) of the War Powers Resolution
2 (50 U.S.C. 1541(c)) states that “the constitutional
3 powers of the President as Commander-in-Chief to
4 introduce United States Armed Forces into hos-
5 tilities, or into situations where imminent involve-
6 ment in hostilities is clearly indicated by the cir-
7 cumstances, are exercised only pursuant to (1) a
8 declaration of war, (2) specific statutory authoriza-
9 tion, or (3) a national emergency created by attack
10 upon the United States, its territories or posses-
11 sions, or its armed forces”.

12 (7) On April 12, 2018, then-Director of the
13 Central Intelligence Agency, Mike Pompeo, testified
14 before the Committee on Foreign Relations of the
15 Senate that he believed the President had the au-
16 thority to send U.S. military forces into action even
17 if none of the qualifications of section 2(c) of the
18 War Powers Resolution are met.

19 (8) On February 13, 2020, a bipartisan major-
20 ity in the Senate directed the President to remove
21 Armed Forces from hostilities against Iran or any
22 part of its government or military, unless otherwise
23 explicitly authorized by Congress, following passage
24 of a similar measure in the House of Representa-
25 tives on January 9, 2020.

1 (9) The United States has approximately
2 28,500 members of the Armed Forces stationed in
3 Korea, and over 100,000 United States citizens in
4 total, all of whom would be placed in grave danger
5 if an active military conflict on the Korean Penin-
6 sula were to erupt.

7 **SEC. 3. PROHIBITION ON UNCONSTITUTIONAL MILITARY**
8 **STRIKES AGAINST NORTH KOREA.**

9 (a) PROHIBITION OF AUTHORIZED MILITARY FORCE
10 IN OR AGAINST NORTH KOREA.—Except as provided in
11 subsection (b), no Federal funds may be obligated or ex-
12 pended for any use of military force in or against North
13 Korea unless Congress has—

14 (1) declared war; or

15 (2) enacted specific statutory authorization for
16 such use of military force after the date of the en-
17 actment of this Act that meets the requirements of
18 the War Powers Resolution (50 U.S.C. 1541 et
19 seq.).

20 (b) EXCEPTION.—The prohibition under subsection
21 (a) shall not apply to a use of military force that is con-
22 sistent with section 2(c) of the War Powers Resolution.

23 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion may be construed—

1 (1) to prevent the President from using nec-
2 essary and appropriate force to defend United States
3 allies and partners if Congress enacts specific statu-
4 tory authorization for such use of force consistent
5 with the requirements of the War Powers Resolution
6 (50 U.S.C. 1541 et seq.);

7 (2) to relieve the executive branch of restric-
8 tions on the use of force, reporting, or consultation
9 requirements set forth in the War Powers Resolution
10 (50 U.S.C. 1541 et seq.); or

11 (3) to authorize the use of military force.

12 **SEC. 4. SENSE OF CONGRESS IN SUPPORT OF DIPLOMATIC**
13 **RESOLUTION TO GROWING TENSIONS WITH**
14 **NORTH KOREA.**

15 It is the sense of Congress that—

16 (1) a conflict on the Korean peninsula would
17 have catastrophic consequences for the American
18 people, for members of the United States Armed
19 Forces stationed in the region, for United States in-
20 terests, for United States allies the Republic of
21 Korea and Japan, for the long-suffering people of
22 North Korea, and for global peace and security more
23 broadly, and that actions and statements that in-
24 crease tensions and could lead to miscalculation
25 should be avoided; and

1 (2) the President, in coordination with United
2 States allies, should explore and pursue every fea-
3 sible opportunity to engage in talks with the Govern-
4 ment of North Korea on concrete steps to reduce
5 tensions and improve communication, and to reinvig-
6 orate high-level negotiations aimed at achieving a
7 diplomatic agreement consistent with the June 12,
8 2018 Joint Statement of President Donald J.
9 Trump of the United States of America and Chair-
10 man Kim Jong Un of the Democratic People's Re-
11 public of Korea at the Singapore Summit.