

As PROPONENT of SB38

To Chairman Thompson and the Senate Committee on Federal and State Affairs members,

I speak in support of this bill putting reasonable checks on egregious federal overreach while embodying the spirit of the Constitution, which clearly states that wars are to be declared by Congress. This is further emphasized by the discussions in the Constitutional Convention and in the Federalist Papers. I'd like to give some background on how we got here.

In every conflict since WWII, this power has been usurped by the Executive. Truman claimed that the UN Security Council's call for military action authorized him to unilaterally send troops into Korea. During the Korean War, he also sent 4 divisions to West Germany, again asserting that he had the authority to do so. He didn't seek Congressional approval in advance or in retrospect. Congress declined to defend their Constitutional authority against executive encroachment, backing down in the face of the Red Scare and taking action to fund the deployments both directly and indirectly. The 1945 assurances to Congress that their approval would be sought for UN operations were forgotten. In this "police action under the UN," as Truman called it, over 2.5 million people were killed, 36,000 of them Americans.

This precedent was made into law in 1973 with the War Powers Act, allowing the president to initiate an armed conflict for up to 60 days before it would either be terminated or Congress would authorize its continuation. Whether it's labeled a "police action," a "peacekeeping mission," or "fighting terrorism," it amounts to allowing one man to begin a war, then putting Congress into the position of either "supporting the troops" or "not paying the troops." Support does not involve flippantly risking their lives in subversion of the Constitution that they swore to support and defend, but that has been done many times in the decades since. For a more expansive take on what I've outlined above, I invite you to read the short article linked at the bottom of my written testimony.

I've worked with many of these brave citizen soldiers over the years and have witnessed a small part of the mental, emotional, and physical toll that these illegal and undeclared wars take on them. Over 650,000 Guardsmen and women were deployed to Iraq and Afghanistan, making up 45% of the total force and suffering 18.4% of the casualties. They've also seen combat in Syria and Somalia.

The constitutional analog to the National Guard is the militia, always intended to be a volunteer force whose primary duty is to their state. The federal government is authorized to call them forth only in time of insurrection or invasion. When they're used to supplement the federal army overseas, they're unavailable to serve their home states, whether that be for disaster relief, civil unrest, border security, or defense of the homeland.

With the federal government so out of control, it falls to the states to hold it to some degree of Constitutional accountability, and that's exactly what this bill does. I appreciate your consideration and thank you for your time.

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