
HOUSE CONCURRENT RESOLUTION

OPPOSING THE INDEFINITE DETENTION PROVISIONS OF THE NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.

1 WHEREAS, the National Defense Authorization Act for 2012
2 was signed into United States law on December 31, 2011, by
3 President Barack Obama; and
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5 WHEREAS, the Act authorizes \$662,000,000,000 in funding "for
6 the defense of the United States and its interests abroad"; and
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8 WHEREAS, the most controversial provisions to receive wide
9 attention are contained in Title X, subtitle D, entitled
10 "Counter-Terrorism," and sections 1021 and 1022, which deal with
11 detention of persons the government suspects of involvement in
12 terrorism, have generated controversy as to their legal meaning
13 and their potential implications for abuse of presidential
14 authority; and
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16 WHEREAS, pursuant to the Authorization for Use of Military
17 Force, which was passed in the immediate aftermath of the
18 September 11, 2001 attacks, the National Defense Authorization
19 Act text affirms the President's authority to detain, via the
20 armed forces, any person "who was part of or substantially
21 supported al-Qaeda, the Taliban, or associated forces that are
22 engaged in hostilities against the United States or its
23 coalition partners," and anyone who commits a "belligerent act"
24 against the United States or its coalition allies, under the law
25 of war, "without trial, until the end of the hostilities
26 authorized by the Authorization for Use of Military Force; and
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28 WHEREAS, the National Defense Authorization Act also
29 authorizes trial by military tribunal, or "transfer to the
30 custody or control of the person's country of origin," or



1 transfer to "any other foreign country, or any other foreign
2 entity"; and
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4 WHEREAS, the United States Constitution guarantees all
5 United States citizens and permanent residents, fundamental
6 rights including the freedom of religion, speech, assembly and
7 privacy; protection from unreasonable searches and seizures; due
8 process and equal protection; equality before the law and the
9 presumption of innocence; access to counsel in judicial
10 proceedings; and a fair and speedy public trial; and
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12 WHEREAS, sections 1021 and 1022 of the National Defense
13 Authorization Act have been called a violation of constitutional
14 principles and of the United States Bill of Rights; and
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16 WHEREAS, the National Defense Authorization Act affirms its
17 strong opposition to terrorism at the expense of the fundamental
18 civil rights and liberties of its people; now, therefore,
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20 BE IT RESOLVED by the House of Representatives of the
21 Twenty-sixth Legislature of the State of Hawaii, Regular Session
22 of 2012, the Senate concurring, that the Legislature affirms its
23 strong opposition to the indefinite detention provisions of the
24 National Defense Authorization Act for fiscal year 2012; and
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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the President of the
28 United States, the Majority Leader of the United States Senate,
29 the Speaker of the United States House of Representatives, and
30 the members of Hawaii's congressional delegation.
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OFFERED BY:

Hal Abbot

Fraser

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