

1           **CONCURRENT RESOLUTION ON THE NATIONAL DEFENSE**

2                           **AUTHORIZATION ACT**

3                                   2012 GENERAL SESSION

4                                           STATE OF UTAH

5                           **Chief Sponsor: Todd Weiler**

6                           House Sponsor: Daniel McCay

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8   **LONG TITLE**

9   **General Description:**

10           This concurrent resolution of the Legislature and the Governor expresses concerns over  
11 portions of the National Defense Authorization Act for Fiscal Year 2012.

12   **Highlighted Provisions:**

13           This resolution:

- 14           ▶ expresses concerns over Sections 1021 and 1022 of the National Defense  
15 Authorization Act for Fiscal Year 2012; and  
16           ▶ urges Congress to clarify, or repeal if necessary, Sections 1021 and 1022 of the  
17 National Defense Authorization Act for Fiscal Year 2012.

18   **Special Clauses:**

19           None

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21   *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

22           WHEREAS, the Congress of the United States passed the National Defense  
23 Authorization Act for Fiscal Year 2012 ("2012 NDAA") on December 15, 2011;

24           WHEREAS, the President of the United States of America signed the 2012 NDAA into  
25 law on December 31, 2011;

26           WHEREAS, Section 1021 of the 2012 NDAA affirms the authority of the Armed  
27 Forces of the United States to detain covered persons pending disposition under the law of war  
28 and defines covered persons to include persons associated with the attacks on September 11,  
29 2001 or members and supporters of al-Qaeda, the Taliban, or other associated forces that are

30 engaged in hostilities against the United States;

31 WHEREAS, Section 1022 of the 2012 NDAA requires that members of al-Qaeda  
32 captured in the course of hostilities be detained in military custody pending disposition under  
33 the laws of war, except that it is not a requirement to detain a citizen of the United States or  
34 lawful resident alien of the United States on the basis of conduct taking place within the United  
35 States;

36 WHEREAS, there is disagreement about the impacts of Sections 1021 and 1022 of the  
37 2012 NDAA;

38 WHEREAS, the United States Constitution and the Utah Constitution provide for due  
39 process and a speedy trial;

40 WHEREAS, the indefinite military detention of a citizen in the United States without  
41 charge or trial violates the right to be free from deprivation of life, liberty, or property without  
42 due process of law guaranteed by the United States Constitution, Amendment V and Utah  
43 Constitution, Article I, Section 14; and

44 WHEREAS, it is indisputable that the threat of terrorism is real and that the full force  
45 of appropriate and constitutional law must be used to defeat this threat; however, winning the  
46 war against terror cannot come at the great expense of mitigating basic, fundamental,  
47 constitutional rights:

48 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the  
49 Governor concurring therein, reaffirms our rights guaranteed by the United States Constitution  
50 and the Utah Constitution, and urges the United States Congress to clarify, or repeal if found  
51 necessary, Sections 1021 and 1022 of the 2012 NDAA to ensure protection of the rights  
52 guaranteed by the United States Constitution and the Utah Constitution.

53 BE IT FURTHER RESOLVED that a copy of this resolution should be sent to the  
54 Majority Leader of the United States Senate, the Speaker of the United States House of  
55 Representatives, and to the members of Utah's congressional delegation.