

SCR011S02 compared with SCR011S01

~~{deleted text}~~ shows text that was in SCR011S01 but was deleted in SCR011S02.

inserted text shows text that was not in SCR011S01 but was inserted into SCR011S02.

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~~{Senator Todd Weiler}~~ Representative Daniel McCay proposes the following substitute bill:

CONCURRENT RESOLUTION ON THE NATIONAL DEFENSE

AUTHORIZATION ACT

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: ~~{~~ Daniel McCay }

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses strong disapproval of portions of the National Defense Authorization Act for Fiscal Year 2012.

Highlighted Provisions:

This resolution:

- ▶ expresses disapproval of Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012, which authorizes:
 - military detention without trial for suspected terrorists; and
 - trial by military commission or transfer to a foreign country of persons detained;

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and

- ▶ urges Congress to repeal or clarify Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012.

Special Clauses:

None

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

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

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

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

WHEREAS, Section 1021 of the 2012 NDAA states that disposition under the law of war includes detention without trial until the end of hostilities, trial by military commission, and transfer to the custody of the person's country of origin or any other foreign country or entity;

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

WHEREAS, there is uncertainty whether Sections 1021 and 1022 could be used to authorize indefinite military detention of United States citizens, legal permanent residents, and others without charge or trial within the United States;

WHEREAS, Section 1021 could be used to allow the President to determine whether or not a trial, and what type of trial, will be held for those arrested under the authority of the 2012 NDAA;

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

WHEREAS, the indefinite military detention of any person within the United States without trial violates the right to a speedy trial by an impartial jury guaranteed by the United States Constitution, Amendment V and Utah Constitution, Article I, Section 12; and

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

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, expresses strong disapproval of an interpretation and application of Section 1021 or 1022 of the 2012 NDAA that violates a right guaranteed by the United States Constitution and the Utah Constitution.

BE IT FURTHER RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, urges the United States Congress to repeal or clarify Sections 1021 and 1022 of the 2012 NDAA to protect the rights guaranteed by the United States Constitution and the Utah Constitution.

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