

House Resolution No. 6021

By Representative O'Hara, Alford, Arpke, Boman, Brown, Calloway, Collins, DeGraaf, Donohoe, Fawcett, Garber, Goico, Goodman, Gordon, Gregory, Grosserode, Hedke, Hildabrand, Howell, Huebert, Kiegerl, Knox, Meigs, Mesa, Montgomery, O'Brien, Patton, Peck, Powell, Prescott, Rubin, Seiwert, Siegfried, Smith, Suellentrop, Tyson, Vickrey and Weber

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1 A RESOLUTION standing in opposition to the provisions in the National
2 Defense authorization act for fiscal year 2012 which authorize military
3 detention and trial of United States citizens and lawful residents in
4 direct violation of the United States Constitution and the constitution
5 of this state.

6 WHEREAS, On Dec. 31, 2011, President Barack Obama signed the
7 Conference Report to House of Representative Bill H.R. 1540, the
8 National Defense Authorization Act (NDAA), into law; and

9 WHEREAS, The NDAA contains provisions repugnant to, and
10 destructive of, the constitutions and Bill of Rights of the United States of
11 America, and this state, directly violating the U.S. Constitution's Article
12 I, Section 9 [Habeas Suspension Clause], Article III, Section 2, Clause 2
13 [Trial by jury of all crimes except impeachment], Article III, Section 3
14 [Treason Clause], Article IV, Section 4 [guarantee of a Republican Form
15 of government] the 4th Amendment [Protection against unreasonable
16 search and seizure] 5th Amendment [Right to grand jury indictment and
17 due process], 6th Amendment [Right to speedy and public trial], 8th
18 Amendment [Protection against cruel and unusual punishments], and 14th
19 Amendment [Equal protection], as well as infringes on the entirety of the
20 Bill of Rights and basic structure of the Constitution, making We the
21 People insecure in the exercise of any of our Rights and Powers; and

22 WHEREAS, The United States Constitution and the constitution of
23 this state are infringed and/or usurped by provisions in the NDAA which
24 authorize the application of: military force (including assassination),
25 indefinite military detention without trial, military trial, and rendition to
26 foreign countries and entities of any person, including American citizens
27 and lawful resident aliens, at the discretion of the President or a
28 subordinate within the Department of Defense; and

29 WHEREAS, Granting the President the authority he would have over
30 a foreign enemy on a "battlefield" for use against the American people is
31 unconstitutional and a violation of the federal government's duty of
32 allegiance to protect U.S. citizens anywhere in the world; and

33 WHEREAS, "Any person having knowledge of any treasonable

1 project is bound to disclose it to the President, or to a United States judge,
2 or to a Governor of a State or a State judge, or he is guilty of misprision
3 of treason, and may be fined one thousand dollars and imprisoned for
4 seven years." (Treatise on Law of the American Rebellion, page 20, Gard.
5 Inst., 326; 1 U.S. St. L. 112, 119.); and

6 WHEREAS, Pursuant to the Oath of Office, all state and federal
7 legislative, judicial and executive officers are sworn to protect and
8 defend the U.S. Constitution from all enemies foreign and domestic; and

9 WHEREAS, Laws not passed in "pursuance" of the Constitution are
10 null and void from their inception; and

11 WHEREAS, The above noted injuries and usurpations, all having in
12 direct object the establishment of an absolute tyranny over these states,
13 are nearly identical to many of the long train of abuses and usurpations
14 that compelled our forefathers to take up arms and to separate from Great
15 Britain, as enumerated in The unanimous Declaration of the thirteen
16 united States of America, of July 4, 1776: Now, therefore,

17 *Be it resolved by the House of Representatives of the State of Kansas:*
18 That for the above and forgoing reasons, this Legislature expresses its
19 belief that the National Defense Authorization Act for fiscal year 2012
20 (NDAA) is unconstitutional in authorizing the President to use war
21 powers, the "law of war," and/or martial law in the United States and its
22 territories over any person, including citizens or lawful resident aliens of
23 the United States not in the military forces, and over citizens or lawful
24 resident aliens of the United States, who are not in the military forces,
25 anywhere in the world; and

26 *Be it further resolved:* That the Legislature expresses its sense that all
27 provisions of the NDAA which are unconstitutional, including as noted
28 herein above, were and are null and void from their inception and are not
29 enforceable in this state, and it is the express policy of this state's
30 Legislature that no officer, employee, or agent of the state will
31 implement, enforce or otherwise support, directly or indirectly, any of the
32 above noted unconstitutional provisions, and that a violation of such
33 policy will be deemed a violation of their oath of office and employment
34 agreement, and will subject them to disciplinary action up to and
35 including termination; and

36 *Be it further resolved:* That the Legislature recognizes its duty to
37 interpose itself between unconstitutional usurpations by the federal
38 government or its agents and the people of this state, as well as the duty
39 to defend the unalienable natural rights of the people, all of which is
40 consistent with the 9th and 10th Amendments to the Constitution of the
41 United States, and with our oaths to defend the Constitution of the United
42 States and the constitution of this state against all enemies, foreign and
43 domestic; and

1 *Be it further resolved:* That the Legislature directs the Congressional
2 delegation of this state to commence immediately efforts to repeal the
3 unconstitutional sections of the NDAA, to wit, sections 1021 and 1022,
4 and any other section or provision which will have the same or
5 substantially the same effect on the United States, its citizens, and lawful
6 resident aliens; and

7 *Be it further resolved:* That the Legislature directs the Congressional
8 delegation to introduce, support, and secure the passage of legislation
9 which clearly states that Congress not only does not authorize, but in fact
10 prohibits the use of military force, military detention, military trial,
11 rendition, or any other power of the "law of war" against U.S. citizens
12 and lawful resident aliens; and

13 *Be it further resolved:* That within 10 days from the passage hereof, a
14 copy of this resolution shall be mailed, by certified mail with a return
15 receipt, to each and every member of this state's Congressional
16 delegation by the Chief Clerk of the House of Representatives, and, in
17 compliance with federal law regarding acts of "misprision of treason,"
18 (page 20, Gard. Inst., 326; 1 U.S. St. L. 112, 119.), to the governor and
19 Supreme Court Chief Justice of this state to effect notification of a
20 possible "conspiracy against the United States," to wit: the attempt by
21 Congress and the President to arbitrarily and indefinitely suspend the Bill
22 of Rights outside the requirement of an invasion or rebellion as required
23 by U.S. Constitution, Article I, Section 9, Clause 3, which states: "The
24 Privilege of the Writ of Habeas Corpus shall not be suspended, unless
25 when in Cases of Rebellion or Invasion the public Safety may require it.,"
26 and by subjecting the American people to the "law of war," including
27 military force, detention, and trial, and/or the institution of martial law,
28 rather than under the laws of the United States, pursuant to the detention
29 and trial requirements of U.S. Constitution, Article III, and of the Fourth,
30 Fifth, Sixth, and Eighth Amendments; and

31 *Be it further resolved:* That the House of Representatives, recognizing
32 its oath-bound duty to defend the Constitution of the United States and
33 the constitution of this state, to secure the people's unalienable natural
34 rights to "Life, Liberty, and the pursuit of Happiness," as alliterated in the
35 Declaration of Independence of July 4, 1776, adopts this resolution.
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