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## HOUSE CONCURRENT RESOLUTION

REQUESTING CONGRESS TO REPEAL OR AMEND THAT PORTION OF PUBLIC  
LAW NO. 109-364 THAT ALLOWS THE PRESIDENT TO TAKE CONTROL  
OF THE NATIONAL GUARD WITHOUT THE CONSENT OF THE GOVERNOR  
AND TO DECLARE MARTIAL LAW.

1           WHEREAS, the Insurrection Act (10 U.S.C. §§331 - 335), a  
2 set of laws that limits the President's ability to deploy troops  
3 within the United States, and the Posse Comitatus Act (18 U.S.C.  
4 §1385), historically have helped to enforce strict prohibitions  
5 on military involvement in domestic law enforcement; and

6  
7           WHEREAS, the Posse Comitatus Act, originally enacted in  
8 1878, provides that, "[w]hoever, except in cases and under  
9 circumstances expressly authorized by the Constitution or Act of  
10 Congress, willfully uses any part of the Army or Air Force as a  
11 posse comitatus or otherwise to execute the laws shall be fined  
12 under this title or imprisoned not more than two years, or  
13 both"; and

14  
15           WHEREAS, the Posse Comitatus Act is the only federal  
16 criminal statute that outlaws military operations directed  
17 against the American people under the cover of "law enforcement"  
18 and, as such, it has been the nation's best protection against  
19 the power-hungry intentions of an unscrupulous and reckless  
20 executive, an executive intent on using force to enforce its  
21 will; and

22  
23           WHEREAS, Public Law No. 109-364, the "John Warner Defense  
24 Authorization Act of 2007" (H.R. 5122), which was signed by the  
25 President on October 17, 2006, allows the President to declare a  
26 "public emergency" and station troops anywhere in America and  
27 take control of state-based National Guard units without the  
28 consent of the governor or local authorities, in order to  
29 "suppress public disorder"; and  
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# H.C.R. NO. 206

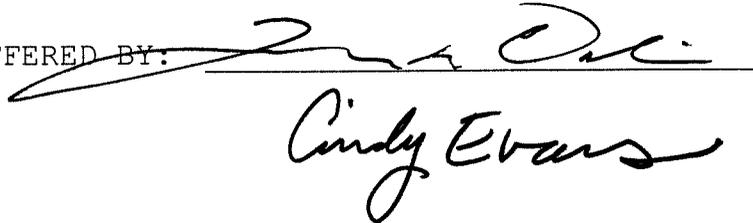
1           WHEREAS, the President's actions in engineering the passage  
 2 and enactment of certain provisions of Public Law No. 109-364  
 3 represent a grave threat to posse comitatus and to American  
 4 democracy itself because it gives the President the power to  
 5 declare martial law; and

6  
 7           BE IT RESOLVED by the House of Representatives of the  
 8 Twenty-fourth Legislature of the State of Hawaii, Regular  
 9 Session of 2007, the Senate concurring, that the United States  
 10 Congress is urged to repeal those portions of Public Law No.  
 11 109-364 that undermine the Insurrection and Posse Comitatus  
 12 Acts; and

13  
 14           BE IT FURTHER RESOLVED that certified copies of this  
 15 Concurrent Resolution be transmitted to the Speaker of the  
 16 United States House of Representatives, the Majority Leader of  
 17 the United States Senate, and the members of Hawaii's  
 18 congressional delegation.

19  
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 21

OFFERED BY:



MAR 14 2007

