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## HOUSE RESOLUTION

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EXPRESSING COMMITMENT TO THE CONSTITUTION OF THE UNITED STATES.

1 WHEREAS, the Constitution of the United States and the  
2 Hawaii State Constitution are the basis of our representative  
3 democracy, and both documents declare that no person will be  
4 deprived of life, liberty, or property without due process of  
5 the law; and

6  
7 WHEREAS, these founding documents reflect the essential  
8 nature of presumed innocence, the right to a speedy public trial  
9 before an impartial jury, other elements of effective due  
10 process, and a commitment that no person will be exposed to  
11 cruel and unusual punishment; and

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13 WHEREAS, the language of sections 1021 and 1022 of the  
14 National Defense Authorization Act (NDAA) on its face permits  
15 indefinite military detention without public trial of any  
16 person, including United States citizens on United States soil;  
17 and

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19 WHEREAS, the NDAA could authorize the indefinite military  
20 detention of activists, journalists, lawyers, and other  
21 Americans for no reason other than exercising their First  
22 Amendment rights of free speech, assembly, and association, thus  
23 chilling speech and depriving a person of the person's liberty;  
24 and

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26 WHEREAS, the indefinite military detention of any person  
27 without trial violates the Fifth and Sixth Amendments of the  
28 Constitution of the United States and Article III of the  
29 Constitution of the United States; and

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31 WHEREAS, the NDAA threatens to eliminate the promise of  
32 presumed innocence and the right to a fair trial; and

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34 WHEREAS, the NDAA's detention provisions could allow the  
35 recurrence of torture in military detention in violation of the  
36 Eighth Amendment; and



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2 WHEREAS, the detention provisions could force United States  
3 military service members to serve as domestic jailers, in  
4 violation of the Posse Comitatus Act, an inappropriate role for  
5 which they are not trained; and  
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7 WHEREAS, the Director of the Federal Bureau of  
8 Investigation, the Secretary of Defense, the Director of  
9 National Intelligence, the Department of Defense, and many of  
10 our nation's generals, admirals, and service persons have  
11 opposed the NDAA's detention provisions; and  
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13 WHEREAS, the State is committed to avoiding a repetition of  
14 the tragedies and mistakes of history, including the  
15 incarceration of Japanese Americans during World War II; and  
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17 WHEREAS, the families of Fred Korematsu, Minoru Yasui, and  
18 Gordon Hirabayashi, Japanese Americans incarcerated in World War  
19 II, filed an amicus brief with the United States Court of  
20 Appeals for the Second Circuit in *Hedges v. Obama*, a lawsuit  
21 that challenges the constitutionality of the NDAA's detention  
22 provisions, arguing that, under the pretense of national  
23 security, the NDAA essentially repeats the decisions in the  
24 discredited World War II legal cases of *Korematsu*, *Yasui*, and  
25 *Hirabayashi*, and allows the government to imprison people  
26 without any due process rights for an indefinite time; now,  
27 therefore,  
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29 BE IT RESOLVED by the House of Representatives of the  
30 Twenty-seventh Legislature of the State of Hawaii, Regular  
31 Session of 2013, that this body expresses its commitment to the  
32 rights and liberties enshrined within the Constitution of the  
33 United States, including the Fifth Amendment right to due  
34 process, the Sixth Amendment right to trial, and the Eighth  
35 Amendment prohibition on cruel and unusual punishment; and  
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37 BE IT FURTHER RESOLVED that public agencies of the State  
38 and the counties are requested to decline requests by federal  
39 agencies acting under detention powers granted by the NDAA or  
40 any authorization of force that could infringe upon  
41 constitutional freedom of speech, religion, assembly or privacy  
42 or rights to counsel; and  
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1 BE IT FURTHER RESOLVED that federal and state law  
2 enforcement officials acting in Hawaii are requested to work in  
3 accordance with local law and in cooperation with the county  
4 police, by allowing any detainees among Hawaii's residents or  
5 visitors access to a trial, counsel, and due process, as  
6 provided by Article III of the Constitution of the United  
7 States, the Bill of Rights, and Article I of the Hawaii State  
8 Constitution; and  
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10 BE IT FURTHER RESOLVED that the members of Hawaii's  
11 Congressional delegation are requested to monitor the  
12 implementation of the NDAA and actively work for the repeal of  
13 the NDAA's detentions provisions, to restore fundamental rights  
14 and liberties embodied in the Hawaii State Constitution and the  
15 Constitution of the United States; and  
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17 BE IT FURTHER RESOLVED that certified copies of this  
18 Resolution be transmitted to Hawaii's congressional delegation,  
19 the chairs of the United States Senate Committee on the  
20 Judiciary, the United States Senate Select Committee on  
21 Intelligence, the United States House of Representatives  
22 Permanent Select Committee on Intelligence, the United States  
23 Attorney General, and the President of the United States.  
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OFFERED BY: \_\_\_\_\_





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