

SANDY ADAMS
24TH DISTRICT, FLORIDA

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON INTELLECTUAL PROPERTY,
COMPETITION, AND THE INTERNET

SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY

COMMITTEE ON SCIENCE, SPACE,
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SUBCOMMITTEE ON INVESTIGATIONS AND
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Dear Friend,

Thank you for contacting me in regards to the National Defense Reauthorization Act of 2012 (NDAA). As you may know, the House Armed Services Committee reported the NDAA out of committee and Chairman Howard "Buck" McKeon (CA-25) filed the bill as H.R. 1540 for consideration on the House Floor. The House debated this bill for three days and it ultimately passed with wide bipartisan support by a vote of 322-96 on May 26, 2011. The Senate passed its version of the NDAA on December 1, 2011. Thereafter, a conference committee was formed and reported a compromise bill out for consideration. On December 14, 2011, this conference report passed the House of Representatives with my support by a vote of 283 to 136 and the Senate followed on December 15, 2011 with a vote of 86 to 13.

H.R. 1540 would bring the total authorized funding for National Defense to \$554 billion for the base budget, and \$115.5 billion for overseas contingency operations. The authorization includes \$530 billion for the Department of Defense and \$11.1 billion for the Department of Energy's National Nuclear Security Administration.

Funding levels authorized by the FY 12 NDAA were reduced from the original House-passed version to comply with the Budget Control Act.

Some key pieces of the legislation that you may be interested in include:

- In recognition of the service and sacrifice of the men and women of our armed forces and their families, the defense bill includes an increase in military pay.
- H.R. 1540 limits future increases in TRICARE Prime enrollment fees for military retirees and their dependents to the annual cost-of-living adjustment for military retirement annuities beginning in 2013.
- The Chairman of the Joint Chiefs of Staff recently noted that our rising debt is one of the greatest threats to our national security. To help understand the full extent of our nation's fiscal vulnerabilities, the legislation includes a provision which requires the Secretary of Defense to conduct a national security risk assessment of U.S. federal debt held by China.
- The bill freezes nearly \$700 million in aid to Pakistan pending Department of Defense delivery of a strategy for improving the effectiveness of such assistance and assurances that

Pakistan is countering improvised explosive device networks in their country that are targeting coalition forces. This freeze includes the majority of the \$1.1 billion in Pakistan Counterinsurgency Funds.

Finally, there has been a great deal of concern regarding sections 1021 and 1022 of the NDAA. Both of these sections refer to the detainment of terrorists connected to al-Qaeda, the Taliban, or associated forces such as al-Qaeda in the Arabic Peninsula who are engaged in hostilities against the United States or its coalition partners. I have heard concerns that perhaps the government will use these provisions against American citizens and suspend our constitutional rights. As a former law enforcement officer, I can tell you the possibility of the military taking on a law enforcement role within the United States is something that would concern me. As a matter of due diligence I went directly to the text of sections 1021 and 1022 and would like to direct your attention to the actual language in the bill.

Section 1021 reaffirms the Authorization for the Use of Military Force (P.L. 107-40) which originally passed on September 18, 2001. This section specifically enumerates the "Authority for the Armed Forces of the United States to detain covered persons." Section 1021 goes on to define a 'covered person' as "a person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001" or "a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners." Some have claimed that Section 1021 of the bill authorizes the indefinite military detention of U.S. citizens without charge or trial. However, this section includes language that, "Nothing in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States."

Section 1022, which specifies the mandatory military custody for any foreign al-Qaeda Terrorist who is a "member of al-Qaeda or an associated force that acts in coordination with or pursuant to the direction of al-Qaeda; and have participated in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners," contains a specific prohibition against the custody of American citizens. Part b (1) states, "The requirement to detain a person in military custody under this section does not extend to citizens of the United States." Additionally, this section reiterates, "Nothing in this section shall be construed to affect the existing criminal enforcement and national security authorities of the Federal Bureau of Investigation or any other domestic law enforcement agency with regard to a covered person, regardless whether such a covered person is held in military custody."

In my reading of this bill, I believe it does not do anything to expand federal authority under the AUMF. I am a firm believer that we need to protect our country but also preserve our values and due process rights in doing so, but the unfortunate truth about our world is that the threat of Islamic extremism is a very real and asymmetrical threat. The terrorists who would attack Americans do not care who they kill, they are not accountable to any international bodies or laws, and they are not going to stop. We must be ready to defend against this threat, and the best way to do so is a coordinated system of checks and balances under the Constitution and exercised legal authority for the protection of our national security. I believe the NDAA met this threshold and I will continue to exercise all due diligence in my role on the House Judiciary

Committee to ensure oversight of the Department of Justice as it pursues terrorists wherever they hide.

The most important function of government is to ensure the safety and security of our citizens. This includes fighting threats both within and without our borders. I voted in favor of this legislation because I believe it provides what our country needs to maintain a strong national defense, it goes a long way towards reducing waste, fraud, and abuse, and it provides strong oversight mechanisms to ensure your tax dollars and rights as American citizens are protected.

Sincerely,



Sandy Adams
Member of Congress