

Monday December 26, 2011

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Montanans Launch Recall of Senators Who Approved NDAA Military Detention. Merry Christmas, US Senate

Ralph Lopez Special to Salem-News.com

The issue of federal official recall has never reached the federal courts.

(HELENA) - Moving quickly on Christmas Day after the US Senate voted **86 - 14** to pass the National Defense Authorization Act of 2011 (NDAA) which allows for the indefinite military detention of American citizens without charge or trial, Montanans have announced the launch of recall campaigns against Senators Max Baucus and Jonathan Tester, who voted for the bill.



Montana is **one of nine states** with provisions that say that the right of recall extends to recalling members of its federal congressional delegation, pursuant to Montana Code 2-16-603, on the grounds of physical or mental lack of fitness, incompetence, violation of oath of office, official misconduct, or conviction of certain felony offenses.

Section 2 of Montana Code 2-16-603 reads:

"(2) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for the elective officer's successor."

The website [Ballotpedia.org](#) cites eight other states which allow for the recall of elected federal officials: Arizona, Colorado, Louisiana, Michigan, Nevada, North Dakota, Oregon, and Wisconsin. New Jersey's federal recall law was struck down when a NJ state judge ruled that "the federal Constitution does not allow states the power to recall U.S. senators," despite the fact the Constitution explicitly allows, by not disallowing ("prohibited" in the Tenth Amendment,) the states the power to recall US senators and congressmen:

"The powers not...prohibited...are reserved to the States...or to the people." - Tenth Amendment of the U.S. Constitution.

The issue of federal official recall has never reached the federal courts.

Montana law requires grounds for recall to be stated which show conformity to the allowed grounds for recall. The draft language of the Montana petitions, "reason for recall" reads:



"The Sixth Amendment of the U.S. Constitution guarantees all U.S citizens:

"a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed..."

The National Defense Authorization Act of 2011 (NDAA 2011) permanently abolishes the Sixth Amendment right to a jury trial, "for the duration of hostilities" in the War on Terror, which was defined by President George W. Bush as "task which does not end" to a joint session of Congress on September 20, 2001.

Those who voted Aye on December 15th, 2011, Bill of Rights Day, for NDAA 2011 have attempted to grant powers which cannot be granted, which violate both the spirit and the letter of the Constitution and the Declaration of Independence.

The Montana Recall Act stipulates that officials including US senators can only be recalled for physical or mental lack of fitness, incompetence, violation of the oath of office, official misconduct, or conviction of a felony offense. We the undersigned call for a recall election to be held for Senator Max S. Baucus [and Senator Jonathan Tester] and charge that he has violated his oath of office, to protect and defend the United States Constitution."

Montana residents William Crain and Stewart Rhodes are spearheading the drive. Mr. Crain is an artist. Mr. Rhodes is an attorney, Yale Law School graduate, and the national president of the organization Oath Keepers, who are military and law



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enforcement officers, both former and active duty, who vow to uphold their Oath to the US Constitution and to disobey illegal orders which constitute attacks on their fellow citizens. Rhodes said:

"These politicians from both parties betrayed our trust, and violated the oath they took to defend the Constitution. It's not about the left or right, it's about our Bill of Rights. Without the Bill of Rights, there is no America. It is the Crown Jewel of our Constitution, and the high-water mark of Western Civilization."

Rhodes noted that:

"Two time Medal of Honor winner Marine General Smedley Butler once said "There are only two things we should fight for. One is the defense of our homes and the other is the Bill of Rights. Time to fight. "

Butler famously ended his career as a Marine General by touring the country with his speech and book denouncing war, "War is a Racket." Butler confessed that he had spent most of his life as a "high class muscle man for Big Business, for Wall Street and the bankers...a racketeer, a gangster for capitalism..."

Eighteen states at present have recall laws, most of which do not apply to federal officials. For these and other states to recall federal officials, state legislatures would have to first pass or amend such laws.

Rising on the House floor to oppose the bill based on the military detention provisions for Americans, Rep. Tom McClintock said before the House vote:



Two Medals of Honor - Marine Gen. Smedley Butler

" today, we who have sworn fealty to that Constitution sit to consider a bill that affirms a power contained in no law and that has the full potential to crack the very foundation of American liberty."

Vermont Senator Bernie Sanders said in opposing the final NDAA:

"This bill also contains misguided provisions that in the name of fighting terrorism essentially authorize the indefinite imprisonment of American citizens without charges."

And in a New York Times op-ed piece by two retired four-star U.S. Marine generals, Charles Krulak and Joseph Hoar, Krulak and Hoar said that "Due process would be a thing of the past."

Montana would be the first recall drive to be launched as a result of the vote for the NDAA military detentions provisions. A number of Facebook pages appeared after the passage of the bill from locations across the country.

References:

Facebook: "Recall Every Congressman Who Voted for the NDAA"

<http://www.facebook.com/...>

"Recalling Senators and Congressmen"

<http://www.uscitizensassociation.com/...>

"How to Recall US Senators and Congressmen"

<http://recallthetraitors.blogspot.com/...>

Special thanks to Daily Kos

<http://www.dailykos.com/story/2011/12/25/1048711/-Montanans-Launch-Recalls-of-Senators-Who-Approved-NDAA-Military-Detention-Merry-Christmas-US-Senate>





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Comments

Lo Phatt December 26, 2011 7:48 pm (Pacific time)

You guys are awesome! Where's the tar and the pillows? Make examples of 'em and the rest of the rats will scurry out of town.

JW December 26, 2011 7:38 pm (Pacific time)

Mikey, like you, I've been trying to find where it says that, and I cannot, nor can I find anyone who can show me when I ask, just like you have done. In short, it don't exist. There's no doubt in my mind that this administration and it's cronies are up to pushing for stuff like that, but, it ain't in the NDAA!

On the contrary, see Section 1021: www.govtrack.us/congress/billtext.xpd?bill=h112-1540 (e) is designed to fool people into thinking US citizens are exempt from indefinite detention without trial: (e) 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. BUT (a) IN GENERAL.—Congress affirms that the authority of the President to use all necessary and appropriate force pursuant to the Authorization for Use of Military Force (Public Law 107-40) includes the authority for the Armed Forces of the United States to detain covered persons (as defined in subsection (b)) pending disposition under the law of war. (1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force. The existing law that allows military authority (Public Law 107-40 Authorization for Use of Military Force (cited above in the NDAA)). "That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001..." www.gpo.gov/fdsys/pkg/PLAW-107publ40/html/PLAW-107publ40.htm THEY EVEN GAVE THEMSELVES THE RIGHT TO TAKE AWAY YOUR RIGHT TO HABEAS CORPUS BY TRANSFERING YOU TO A FOREIGN COUNTRY WHERE YOU CAN BE TORTURED: (4) Transfer to the custody or control of the person's country of origin, any other foreign country, or any other foreign entity.

SEND IT TO ARIZONA December 26, 2011 7:26 pm (Pacific time)

newstips@arizonarepublic.com

LESLIE ROBERTS December 26, 2011 7:12 pm (Pacific time)

LET'S CLEAN HOUSE and SENATE

Anonymous December 26, 2011 7:02 pm (Pacific time)

Just read this in Des Moines Iowa I am proud of you guys also. We are holding the first Iowa Peoples Occupy the Caucuses this week. Keep fightin its our country.

Thomas December 26, 2011 6:52 pm (Pacific time)

Ron Paul 2012!

Kyle December 26, 2011 6:15 pm (Pacific time)

Proud to be from Montana! What the press now needs is to help citizens get involved!

Dale December 26, 2011 6:03 pm (Pacific time)

WAY TO GO MONTANA!! MY FUTURE HOME?

priceless22 December 26, 2011 5:57 pm (Pacific time)

I want to move to Montana! Senator Lindsey Graham the traitor ..is my Senator. and Rep Tim Scott is my Congressional Rep..HE voted for it too. Since I cannot get recall in my state...I need to save my pennies and move to Montana!

caviar emptor December 26, 2011 5:37 pm (Pacific time)

Mikey, See Section 1021:

www.govtrack.us/congress/billtext.xpd?bill=h112-1540

(e) is designed to fool people into thinking US citizens are exempt from indefinite detention without trial:
(e) 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.

BUT

(a) IN GENERAL.—Congress affirms that the authority of the President to use all necessary and appropriate force pursuant to the Authorization for Use of Military Force (Public Law 107–40) includes the authority for the Armed Forces of the United States to detain covered persons (as defined in subsection (b)) pending disposition under the law of war.

(1) Detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force.

The existing law that allows military authority (Public Law 107-40 Authorization for Use of Military Force (cited above in the NDAA)).

"That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001..."

www.gpo.gov/fdsys/pkg/PLAW-107publ40/html/PLAW-107publ40.htm

THEY EVEN GAVE THEMSELVES THE RIGHT TO TAKE AWAY YOUR RIGHT TO HABEAS CORPUS BY TRANSFERING YOU TO A FOREIGN COUNTRY WHERE YOU CAN BE TORTURED:

(4) Transfer to the custody or control of the person’s country of origin, any other foreign country, or any other foreign entity.

More discussion:

www.zerohedge.com/contributed/new-bill-authorizes-rendition-american-citizens-living-within-united-states-other-countr?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3Azerohedge%2Ffeed+%28zero+hedge+-+on+a+long+enough+timeline%2C+the+survival+rate+for+everyone+drops+to+zero%29

In the NDAA, they spell out what they ridiculously claim is "necessary and appropriate force," e.g. indefinite detainment without trial.

EDITOR: Thanks for the great breakdown. Mikey probably really appreciates it too!

Garey December 26, 2011 5:24 pm (Pacific time)

Patriots are appearing out of the woodwork; coast to coast. The shit is about to hit the fan. One can only hope for an improvement to our nation. There are a lot of brain-washed fools out there. Rumour has it a good supply of popcorn may come in handy.

karen December 26, 2011 3:34 pm (Pacific time)

I Am so proud to have been born in Montana

Elias Alias December 26, 2011 2:17 pm (Pacific time)

Montana Oath Keepers is fully signed onto this drive to recall. Thank you, William Crane and Stewart Rhodes.
Salute!
Elias Alias

Robert Moreno December 26, 2011 2:12 pm (Pacific time)

The Constitution for the United States of America is the Supreme Law of the Land, Article VI, paragraph 2. All statutes and laws enacted by Congress must be in harmony with the Constitution. Any statute or law enacted by Congress that is in contradiction or disharmony with the Constitution is null and void from the beginning. It creates no duties, creates no rights, imposes no obligation or duties upon any Citizen of the United States of America. It is as if it never existed. Marbury v. Madison, U.S. Supreme Court decision, 1801

caviar emptor December 26, 2011 2:06 pm (Pacific time)

They will try to end run the 6th by saying it is only valid where there is a prosecution and since you are detained without prosecution there is no trial at all.

caviar emptor December 26, 2011 2:06 pm (Pacific time)

They will try to end run the 6th by saying it is only valid where there is a prosecution and since you are detained without prosecution there is no trial at all.

Mike December 26, 2011 1:52 pm (Pacific time)

Sort girl, we ate not a democracy. Educate yourself. The united states of America is a republic. Have you ever hear or recited the pledge of allegiance? "I pledge allegiance to the flag of the united states of America and to the republic for which it stands, one nation under god indivisible with liberty and justice for all. Do you hear anything about democracy in there? I don't. You won't find anything about democracy in the constitution either. Under a democracy you have less rights, less say, less freedom. Democracy is a form of monarchy where officials are appointed or inherit their powers. We are not like that, in the USA the citizens elect officials to represent them. Please stop listening to mainstream media who are either too stupid, or paid to spread lies.

Mikey December 26, 2011 12:49 pm (Pacific time)

Please show me where in H.R. 2647-16 (the approved bill by Congress and Senate) it says that citizens may be held indefinitely.

EDITOR: US citizens and anyone suspected of a crime against America can be sent all over the world. Under the legislation, the president has the power to transfer suspected terrorists "to the custody or control of the person's country of origin, any other foreign country, or any other foreign entity." David Glazier, a professor at Loyola Law School in Los Angeles, said this was an authority that the president has had before, but only under the new NDAA is the legislation endorsed and insured that it could be applied to Americans.

Zorrogirl December 26, 2011 12:41 pm (Pacific time)

Regardless of party, any Congressman or Senator that voted for this bill should be recalled. This kind of thing cannot be tolerated or the terrorists have won and our democracy is lost.

Charles Ulysses Feney December 26, 2011 12:00 pm (Pacific time)

Why isn't Montana Congressman Denny Rehberg also being recalled for his support of the House version of the NDAA?? Republican politics?

yes!! December 26, 2011 11:55 am (Pacific time)

it's about time...these corporate shills have had their way too long...kick them out!!

Mike December 26, 2011 11:44 am (Pacific time)

I encourage every US citizen to fight back against these tyrants. Find out their home address and go there and confront them. These tyrants are penning such legislation because they are not afraid of the outcome of their actions. They figure people will just complain on the I ternet or call them and moan. They feel that's worth it, no big deal. However, if angry citizens start showing at their doorstep during dinner time, they may start to sweat a bit. Even more so if you are visibly armed and ready to die for your freedom, rights, and liberty. When they take everything, the fear of dying disappears.

Brandt Hardin December 26, 2011 10:59 am (Pacific time)

The NDAA only goes to further stifle our Constitutional Rights without the approval of the Americans, just as the Patriot Act was adopted WITHOUT public approval or vote just weeks after the events of 9/11. A mere 3 criminal charges of terrorism a year are attributed to this act, which is mainly used for no-knock raids leading to drug-related arrests without proper cause for search and seizure. The laws are simply a means to spy on our own citizens and to detain and torture dissidents without trial or a right to council. You can read much more about living in this Orwellian society of fear and see my visual response to these measures on my artist's blog at <http://dregstudiosart.blogspot.com/2011/09/living-in-society-of-fear-ten-years.html>

George December 26, 2011 10:58 am (Pacific time)

It is time for people to gather arms and eliminate the threat of government on the people. They have officially and clearly declared war against the American people. Time to eliminate the threat.

GreenWhatElse December 26, 2011 9:26 am (Pacific time)

We need to get *all* of the Christian terrorists, war criminals, and traitors in Washington as well as their Wall Street masters dragged out in to the streets for fair trials. Merely impeaching these shitting traitors and releasing them back in among the rest of us is why we're a nation run by corporate fascists. The criminals and the traitors know they get away with anything with zero punishment.

HumbleOpinion December 26, 2011 8:47 am (Pacific time)

BRAVO, Montana!!!!

Sharon December 26, 2011 6:52 am (Pacific time)

I am so proud of the people in Montana for taking a stand against a treasonous Congress who are trying to deprive Americans of their Constitutional rights. God bless you. You are American patriots!!

Sherry December 26, 2011 6:50 am (Pacific time)

I am so proud of the people of Montana because they believe in our US Constitution and they are standing up to an unconstitutional law voted on by treasonous members of Congress who have turned their backs on the American people. God bless them. You are American patriots!!

Jimmy December 25, 2011 6:56 pm (Pacific time)

Looks like I just found a place to retire!

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