



Written by [Ty Bodden](#) on June 15, 2026

# Defend the Guard: Restoring the Constitution's War Powers

For decades, presidents of both parties have sent American troops into foreign conflicts [without](#) a formal congressional declaration of war. [Defend the Guard](#) legislation seeks to restore the constitutional balance by prohibiting a state's National Guard from being deployed into active-duty combat overseas unless Congress has officially declared war or otherwise acted under [Article I, Section 8](#) of the [U.S. Constitution](#). The legislation is about requiring Washington to obey the Constitution before sending citizen-soldiers to fight and die in overseas wars.



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Across the country, state lawmakers have introduced [Defend the Guard](#) bills to reclaim one of the most important constitutional checks on federal power: the war power. These measures provide that a state's National Guard may not be released into active-duty combat unless Congress has issued an official declaration of war pursuant to [Article I, Section 8, Clause 11](#) or has otherwise called forth the militia under [Article I, Section 8, Clause 15](#) to execute the laws of the Union, suppress insurrections, or repel invasions.

The issue is not theoretical. Since World War II, the United States has repeatedly engaged in major foreign conflicts [without Congress](#) issuing a formal declaration of war. Military engagements in Korea, Vietnam, Iraq, Afghanistan, Syria, Libya, and other countries have normalized what the Founders [sought to prevent](#): the effective transfer of the war power from Congress to the executive branch. [Defend the Guard](#) legislation attempts to reverse that dangerous trend — not by rewriting the Constitution, but by enforcing it.

## A Constitutional Question

The Constitution is clear. Article I, Section 8 gives Congress the power “to declare War.” It also gives Congress — not the president — the authority to “raise and support Armies,” and to “provide for calling forth the Militia” for three specified purposes: executing the laws of the Union, suppressing (actual) insurrections, and repelling invasions.

Those limitations were intentional. The Founders understood that war is one of the [greatest threats to liberty](#) because it concentrates power, expands debt, increases taxation, and strengthens executive authority. They had no desire to replace King George III with an elected monarch who could unilaterally plunge the nation into war.

In an interview with *The New American*, [Joe Wolverton II, J.D.](#), constitutional-law scholar for [The John Birch Society](#) and author of [By Compact, Not Command](#); [The Miraculous Life and Legacy of James Madison](#); [The Founders' Recipe](#); [What Degree of Madness? Madison's Method to Make America STATES Again](#); and [Article V Guide for Citizens and Citizen-Legislators](#), explained the issue in explicitly



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Madisonian terms.

“Defend the Guard sits squarely within the Founders’ constitutional architecture,” Wolverton said, adding that understanding the issue requires “recovering what the Militia Clauses actually say rather than what two centuries of federal aggrandizement have pretended they say.”

He emphasized that Article I, Section 8 gives the power to declare war to Congress, “not the president, not the National Security Council, not some gaggle of unelected bureaucrats at Foggy Bottom.” He also stressed that the militia may be called forth for only three constitutionally permissible purposes: “to execute the laws of the Union, suppress insurrections, and repel invasions.”

“That is the entire list,” he said. “It is not illustrative. It is exhaustive.”

In Wolverton’s view, modern overseas deployments of state National Guard units into undeclared wars are difficult to square with the Constitution’s text. “Bombing Yemenis, occupying Syrians, garrisoning Germans, and patrolling the South China Sea appear nowhere in that text,” he said, “and no amount of post-hoc rationalization from the federal bench or the Office of Legal Counsel can graft them onto it.”

That is the central argument behind Defend the Guard. The legislation does not abolish the National Guard, prevent domestic missions, or weaken the ability of states to respond to emergencies. Rather, it says that when the federal government seeks to use a state’s National Guard units for active-duty combat overseas, Congress must first do its constitutional duty.

## Madisonian View of War Powers

James Madison repeatedly warned that war is uniquely dangerous to liberty. In his [1793 Helvidius essays](#), Madison rejected Alexander Hamilton’s attempt to expand executive war powers, arguing that the power to initiate war must remain with the legislative branch because executives are naturally inclined toward war.

Wolverton drew directly from Madison’s warnings. Madison, he noted, called the power of war “the most dreadful” of all powers and insisted that it be lodged in the Legislature, not the executive. In [The Federalist, No. 45](#), Madison also assured Americans that the powers delegated to the federal government would be “few and defined,” while those reserved to the states would be “numerous and indefinite.”

That structure has been badly eroded. Congress now frequently avoids accountability by allowing presidents to wage war without a declaration. Presidents claim broad authority to launch military action. Courts often decline to enforce clear constitutional limits. And the states — which created the federal government as their agent — too often act as though they are powerless.

According to Wolverton, such legislation “says, in essence: The state will not release its National Guard units into federal active-duty combat absent a congressional declaration of war as required by Article I, Section 8, Clause 11.”

“That is not [nullification](#) in any pejorative sense,” he continued. “That is the state performing its constitutional duty under the compact theory of union I laid out in *By Compact, Not Command*. The states created the federal government as their agent. When the agent exceeds his commission, the principals are not merely permitted to refuse cooperation — they are obligated to.”

This is the constitutional heart of the issue. Defend the Guard is a state-level measure rooted in federalism, the compact theory of the Constitution, the [10th Amendment](#), and [the militia clauses](#). It



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seeks to restore the vertical separation of powers between the federal government and the states — not merely the horizontal separation of powers among Congress, the president, and the courts.

## Role of the States

Critics of *Defend the Guard* [argue](#) that once the federal government is involved, states have no meaningful role in National Guard deployments. Supporters respond that this misunderstands both the Constitution and the nature of the Guard.

Dan McKnight, chairman of [Bring Our Troops Home](#) and a veteran of the U.S. Marine Corps Reserves, U.S. Army, and Idaho Army National Guard, has made this issue the focus of his national work. McKnight served during Hurricane Katrina and later deployed for 18 months to Afghanistan as part of Operation Enduring Freedom in the Pech River Valley of northeastern Afghanistan. His experience in the Global War on Terror, he said in an exclusive interview with *The New American*, opened his eyes to “the gross misuse of the men and women who proudly wear the uniform and serve our Republic.”

McKnight [founded](#) *Bring Our Troops Home* in February 2019 to force Washington, D.C., to end undeclared wars and reclaim Congress’ enumerated power “to declare war.” Losing friends in war, continuing to lose friends to veteran suicide, and watching another generation serve in a global conflict that began before they were born are among the driving factors behind his work.

“The Founders did not split the war power by accident,” he said in his interview with *The New American*. “They gave Congress, and Congress alone, the power to declare war, because they had just lived through what happens when one man can change the condition of a nation from one of peace to one of war on his own authority. They had a word for that man. They called him a king.”

McKnight also emphasized that the militia clauses specify that Congress may call forth the militia for three specific, defensive purposes. “It does not say ‘to fight a twenty-year occupation’ or ‘to strike Iran,’” he added. “The National Guard is the direct constitutional descendant of that militia. When we deploy the Guard into undeclared wars overseas, we are not just evading the war power — we are reading the militia clauses out of the Constitution entirely.”

That point is central. If the National Guard is the modern descendant of the militia, then the constitutional purposes for which the militia may be called forth still matter. If Congress can avoid declaring war while presidents use the Guard for indefinite foreign combat missions, the constitutional limits become meaningless.

*Defend the Guard*, McKnight said, “restores the balance by enforcing the plain text.”

“It says a governor cannot release his state’s [National] Guard into active-duty combat unless Congress has done its duty and voted to take the country to war,” he explained. “It creates no new power. It holds the federal government to the one the Founders already wrote down.”

## Answering the *Perpich* Objection

Opponents of *Defend the Guard* cite the 1990 U.S. Supreme Court case [Perpich v. Department of Defense](#), arguing that governors cannot stop federal deployment of National Guard troops once they are called into federal service.

McKnight does not ignore that objection, but instead argues that critics misapply the case.

“This is the objection we hear most, and it usually rests on *Perpich v. Department of Defense*,” he said.



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“Let me be precise, because precision matters here. *Perpich* held that once Guardsmen are called into active federal service, a governor cannot veto that call-up over a disagreement about training deployments. We do not dispute that. Defend the Guard does not try to nullify a lawful federal order after the fact, and any version that did would deserve to lose in court.”

McKnight argued that Defend the Guard operates “at a different point and on a different hook.” The issue is not whether a governor may interfere after a lawful federal call-up. The issue is whether a state must release its Guard into active-duty combat when Congress has not satisfied the constitutional prerequisite for war.

“The trigger is the one act the Constitution reserves to Congress alone: the decision to change the condition of the nation from one of peace to one of war,” he said. “The bill conditions the state’s release of its Guard on Congress meeting that Article I obligation.”

That argument reframes the issue. Defend the Guard is not an attempt to give states unilateral control over national military strategy. Rather, it is an attempt to require that Congress declare war before state National Guard units are used in active-duty combat.

“That is not a state second-guessing the president’s military judgment,” McKnight said. “It is a state insisting that the constitutional precondition for war — a deliberate vote by the people’s representatives — actually be met before its sons and daughters are sent to fight one.”

Wolverton similarly grounds the state role in the anti-commandeering doctrine and Madisonian federalism. He cited the Supreme Court decisions in [New York v. United States](#) (1992) and [Printz v. United States](#) (1997) as modern confirmations of the principle that Madison described in [The Federalist, No. 46](#): States cannot be forced to expend their resources enforcing or executing federal programs.

“The Guard, despite federal entanglements introduced by the [Militia Act of 1903](#) and subsequent statutory contortions, remains constitutionally a state militia under Article I, Section 8, Clauses 15 and 16,” Wolverton explained. “Governors retain authority. Legislatures retain authority. And that authority includes refusing to feed citizen-soldiers into undeclared wars that the Constitution forbids.”

## **Total Force Policy**

McKnight also points to the [Total Force Policy](#) as evidence that the states have an important role in checking unauthorized war. After Vietnam, the U.S. military increasingly integrated the National Guard and Reserve into overall war planning. [General Creighton Abrams](#), Army chief of staff from 1972 to 1974, is [associated](#) with the policy of ensuring that no president could engage in a major sustained conflict without calling up the Guard and Reserve. The purpose was to make war felt by the entire country, rather than allow presidents to fight major conflicts with little public accountability.

McKnight argues that Defend the Guard applies that logic. “The states are not bystanders to this system,” he explained. “They are the foundation of it. There is no deployable American war machine without the National Guard. Creighton Abrams built the Total Force Policy in the 1970s precisely so that no president could go to a major war without calling up the Guard and Reserve — so that the country would have to feel it. That was the design.”

Defend the Guard, he said, “takes Abrams at his word.” “If you cannot go to war without the Guard, and the Guard belongs to the states until Congress votes to commit the nation to one, then the states have not only the authority to act — they have the duty,” he noted.



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He also cited federal law, arguing that the executive branch often ignores its requirements. [Title 10, Section 12301](#) provides that, “In time of war or of national emergency declared by Congress,” certain Guard and Reserve units may be ordered to active duty for the duration of the war or emergency and for six months thereafter.

“Defend the Guard legislation brings state law into alignment and gives the governor the authority to check the federal government at the moment in time right before the National Guard is released into federal control to ensure the purpose is constitutional,” McKnight said.

## A Growing State Movement

Defend the Guard has appeared in numerous states in recent years, including Arizona, Idaho, Maine, Montana, New Hampshire, North Dakota, South Dakota, and Virginia. Although the details vary from state to state, the core idea is consistent: National Guard troops should not be released into active-duty combat unless Congress has declared war or taken another constitutional action authorizing the use of the militia.

Wyoming has also taken a notable step in this direction. [SF67](#) (2026), which became law, allows the governor to organize and maintain a Wyoming State Guard without first requiring the Wyoming National Guard to be called into federal service. The bill removes federal involvement from the State Guard’s structure, places it more fully under the governor’s authority, and authorizes the Guard to be used for state defense, public peace, enforcing state law, responding to emergencies, suppressing riots or invasions, supporting wildland fire response, and other duties required by the governor.

By placing the State Guard under state authority and removing federal involvement from its structure, SF67 upholds Article I, Section 8, Clauses 15 and 16 of the U.S. Constitution and the 10th Amendment, and provides an important safeguard against unconstitutional federal overreach. A state defense force of this kind protects [state sovereignty](#) and helps Wyoming defend its citizens, enforce its laws, and respond to emergencies without depending on federally controlled forces — precisely the constitutional design the Founders intended.

In 2025 alone, Defend the Guard bills were introduced in multiple states, including Arizona ([SB1495](#)), Maine ([LD265](#)), North Dakota ([HB1315](#)), South Dakota ([SB82](#)), and Virginia ([HB2193](#)). Though the wording varied slightly, each measure sought to prevent the state’s National Guard from being deployed into active-duty combat unless Congress had issued an official declaration of war or taken another constitutional action under Article I, Section 8, Clauses 15 and 16.

Earlier measures reflect the same constitutional concern. Arizona’s [SB1121](#) (2024) and [SB1367](#) (2023), Idaho’s [S1252](#) (2024), New Hampshire’s [HB229](#) (2024), and Montana’s [HB527](#) (2023) all sought to prevent state National Guard units from being deployed into active-duty combat without proper congressional action.

The vote margins also demonstrate that Defend the Guard is not confined to one state or one political environment. For example, the Virginia House passed [HB2193](#) unanimously, the Idaho Senate passed [S1252](#) by a 27-8 vote, and the New Hampshire House passed [HB229](#) by a narrow 187-182 vote. In other states, the bills failed to pass in either chamber, but only after forcing lawmakers to take a public position on Congress’ duty to declare war.

Texas has become one of the most important battlegrounds. McKnight said the issue has gained traction there through grassroots Republican activism.



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“Nowhere is the momentum clearer than Texas, and Defend the Guard did not arrive there overnight,” he said. “It climbed every rung of the party ladder. It started as resolutions passed by grassroots delegates. It was written into the state party platform as a plank, number 250. It went before Republican primary voters as a ballot proposition — Proposition 6 in 2024 — and they approved it overwhelmingly, with nearly 84 percent of Republican voters voting yes. And at the state convention now underway, the party is adopting it as one of its official legislative priorities for the session ahead.”

McKnight described that as “the largest state Republican Party in the country putting its full institutional weight behind this” — not through a single endorsement, but through “the whole pipeline, from the precinct floor to the priority list.”

That development is significant. If Defend the Guard becomes a state-party priority in large states such as Texas, it could gain significant momentum, leading to its enactment in multiple states.

## **Not Left or Right, but Constitutional**

Supporters of Defend the Guard emphasize that the issue should transcend party lines. The constitutional question is the same regardless of whether the president is a Republican or a Democrat: Congress has the power to declare war; presidents do not.

“This was never a left issue or a right issue,” McKnight said. “It is a constitutional issue, and the people waking up to it span the spectrum.”

That point matters, because both parties have contributed to the problem. Republican and Democratic presidents alike have launched, expanded, or continued military operations without formal declarations of war. Republican and Democratic members of Congress alike have too often avoided the responsibility of voting clearly on war.

McKnight said Congress has spent decades avoiding accountability. “For 30 years, Congress has been content to let presidents of both parties send Americans into combat while it watches from the cheap seats,” he explained. “Defend the Guard forces the question back to where Article I says it belongs.”

This is precisely why state action matters. Federal officials are unlikely to restrain themselves voluntarily. Presidents rarely surrender power. Congress often avoids hard votes. Federal courts frequently refuse to intervene in war-powers disputes. State legislatures, therefore, have both an opportunity and a duty to act.

Wolverton’s answer points to the same conclusion. “The Constitution’s restraints on federal power are not self-executing,” he said. Quoting Madison in [The Federalist, No. 51](#), he added that “ambition must be made to counteract ambition.”

“If state legislators will not assert their constitutional prerogatives, the federal Leviathan will continue swallowing them,” he warned.

## **War, Liberty, and Permanent Crises**

War is especially dangerous because it expands nearly every other form of government power. Madison understood this clearly.

“Of all the enemies to public liberty,” he wrote, “war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other.”

Wolverton applied that warning directly to today’s undeclared wars. “Debt, taxes, executive



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aggrandizement, surveillance, conscription — all flow from perpetual war,” he said. “A state legislator who passes Defend the Guard is not engaging in symbolic politics. He is performing the precise duty Madison and Jefferson assigned him in 1798.”

That reference to 1798 is important. In the [Kentucky and Virginia Resolutions](#), drafted in 1798 and 1799, Thomas Jefferson and James Madison articulated the principles of state interposition against unconstitutional federal action. Those resolutions were responses to the [Alien and Sedition Acts](#), but the principles they invoked apply broadly: The federal government is limited, the states are parties to the constitutional compact, and unconstitutional usurpations should be resisted.

Wolverton warned that too many modern citizens misunderstand constitutional remedies. “The first lesson — and the one most often skipped by the well-meaning but constitutionally illiterate — is that education must precede action,” he said.

He argued that the Founders were deeply educated in history, philosophy, law, and political theory. “The Founders’ Recipe exists because the men who built this republic were marinated in Cicero, Polybius, Sidney, Locke, Montesquieu, Blackstone, and Coke,” he said.

Citizens and legislators who try to use constitutional tools without understanding them, he warned, “will misuse them, blunt them, or surrender them at the first sophisticated objection from a federal apologist.”

The solution is not merely electing a different president. Wolverton said the proper remedies are “structural, not personal.”

“Voting harder for a better president will not restore federalism,” he said. “The structural remedies are: state interposition, nullification of unconstitutional acts, and refusal to participate in federal overreach.”

That is where Defend the Guard fits. It is not a symbolic resolution. It is a structural remedy — one that uses state authority over the National Guard to force Congress to face its constitutional responsibility.

## **Article V and the Duty to Enforce the Constitution**

Wolverton also warned against the idea that the solution to federal overreach is rewriting the Constitution through an [Article V convention](#).

“As for [Article V](#) specifically, my *Article V Guide for Citizens and Citizen-Legislators* was written because the convention-of-states movement, however well-intentioned in some quarters, institutionally misapprehends the danger and the procedural realities,” he said.

Madison himself, he noted, warned late in life against the [dangers](#) of a second convention. The problem is not that the Constitution lacks sufficient limits. The problem is that existing limits are not enforced.

“The remedy for federal overreach is not to rewrite the Constitution we already have,” Wolverton said. “It is to enforce it.”

He continued: “The states possess every tool they need without amending a syllable: the power of the purse over federal cooperation, the power over their militias, the power to refuse commandeering, the power to interpose against unconstitutional acts, and the power to nullify in their own jurisdictions.”

That is an essential point for state legislators. They do not need permission from Washington, D.C., to defend the constitutional compact. They already possess authority under the Constitution’s structure.



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Defend the Guard is one practical way to exercise that authority.

Wolverton said citizens should master the founding documents, ratification debates, and both *The Federalist* and *The Anti-Federalist Papers*. State legislators, he added, should introduce and pass Defend the Guard bills, Second Amendment Preservation Acts, anti-commandeering measures against federal surveillance, and other efforts to refuse participation in unconstitutional federal schemes.

“The Founders did not bleed at Lexington and freeze at Valley Forge so that their posterity could ask a federal judge whether the federal government had granted itself too much federal power,” Wolverton said. “They built a compact among sovereign states, and the states retain every weapon necessary to enforce the terms of that compact. Defend the Guard is one of those weapons. Use it.”

## **The Human Cost of Undeclared War**

The constitutional question is not abstract for those who have served. McKnight’s work grows out of personal experience in Afghanistan and the broader cost of the Global War on Terror.

He has watched friends die in war, watched veterans continue to suffer at home, and watched a new generation of troops serve in conflicts that began before they were born. Those realities expose the moral seriousness of Congress’ failure.

The men and women of the National Guard should not be pawns in an undeclared global chess match. They are citizen-soldiers with families, businesses, churches, and communities. “The men and women in the Guard signed up to defend this country,” McKnight said, “not to serve as a permanent expeditionary force for whichever administration wants a war it will not bring before Congress.”

McKnight also pointed to the oath service members swear. “The oath they swear is to defend the United States Constitution against all enemies, foreign and domestic,” he said. “More and more legislators are realizing they have the power to honor that commitment, and voters are starting to ask why they have not used it.”

That is the moral force of Defend the Guard. Before elected officials ask young men and women to risk their lives defending the Constitution, those same officials should obey the Constitution.

“Before we send our sons and daughters to defend that document,” McKnight said, “we should honor the words written in it — and do the very thing it requires of us before we ask them to die upholding their side of the deal.”

## **Iran and the War-powers Debate**

Recent tensions involving [Iran](#) have made the issue even more urgent. McKnight said that Defend the Guard advocates have encouraged legislators to consider scenarios in which Guard units could be sent into undeclared wars. “For years the argument was abstract,” he said. “We were asking lawmakers to imagine a scenario, and that is a hard sell in a committee hearing. It is not abstract anymore.”

He pointed to National Guard commitments connected to the Iran conflict as evidence that the hypothetical has become real. Whether involving Iran, Syria, Yemen, or another theater, the constitutional principle remains unchanged: If the United States is to enter war, Congress must declare it.

This renewed war-powers debate should force state legislators to ask a basic question: Will they continue to allow their states’ citizen-soldiers to be used in undeclared wars, or will they require



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Congress to follow the Constitution?

## **A Strong Defense Requires a Constitutional Process**

Opponents sometimes claim that Defend the Guard would weaken national defense. Supporters answer that the legislation does not prevent defensive action, domestic missions, emergency responses, training, or constitutionally authorized deployments. Rather, it requires Congress to declare war before National Guard units are sent into active-duty combat overseas.

McKnight summarized the point clearly. “None of this is about weakening the country’s defense,” he said. “It is about restoring the process the Constitution requires before we change the condition of our nation from one of peace to one of war. Strong defense and undeclared war are not the same thing. The Founders knew the difference. We are simply asking Congress to remember it.”

That distinction is crucial. A constitutional [republic](#) can defend itself without surrendering the war power to the president. In fact, the Constitution’s war-making process is part of America’s defense — protecting the country from rash executive decisions, foreign entanglements, and permanent war.

Congressional debate and a formal declaration of war force public accountability. They require lawmakers to put their names on the line, make clear who is responsible, and ensure that the people — through their representatives — have a voice before the nation moves from peace to war.

Defend the Guard would not solve every problem in U.S. foreign policy. It would not immediately end every unconstitutional program or restore every lost constitutional restraint. But it would reassert one of the most important principles of the American system: The federal government is limited, the president is not a king, and the states have a duty to defend the constitutional compact.

## **A Call to Legislators**

State legislators who support Defend the Guard are not engaging in anti-military politics. They are defending the Constitution and protecting the men and women of the National Guard from being used in undeclared wars.

The legislation recognizes that National Guard troops should be used to protect the lives, liberty, and property of their fellow Americans in accordance with the Constitution. If the nation truly faces a war, Congress should declare it. If Congress is unwilling to declare war, state Guard units should not be sent into active-duty combat overseas.

State lawmakers should introduce, support, and pass Defend the Guard legislation. Governors should sign it. Citizens should demand that their representatives take a position. Veterans, families, constitutionalists, and taxpayers should insist that no more Americans be sent into undeclared wars while Congress hides from its duty.

The Constitution already provides the answer. Article I, Section 8 places the power to declare war in Congress. The militia clauses identify the limited purposes for which the militia may be called forth. The 10th Amendment reserves undelegated powers to the states and the people. The states are not administrative units of Washington, D.C. — they are parties to the constitutional compact. Defend the Guard is one way for them to act accordingly.

The Founders understood that liberty cannot survive if war-making power is concentrated in one man. Madison warned that war contains the seed of every danger to public liberty. Jefferson and Madison taught that states have a duty to interpose against unconstitutional federal action.



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Defend the Guard brings those principles together. It educates citizens, challenges lawmakers, protects Guard members, and forces Congress to confront its constitutional duty. It is not merely a military-policy proposal, but a test of whether Americans still believe the Constitution means what it says.

*To learn more about how your state and federal legislators vote on issues of constitutional importance, visit The New American's [Freedom Index](#) and state [Legislative Scorecards](#). You can also stay informed about what is happening in your state legislature and in Congress by signing up for legislative alerts [here](#).*

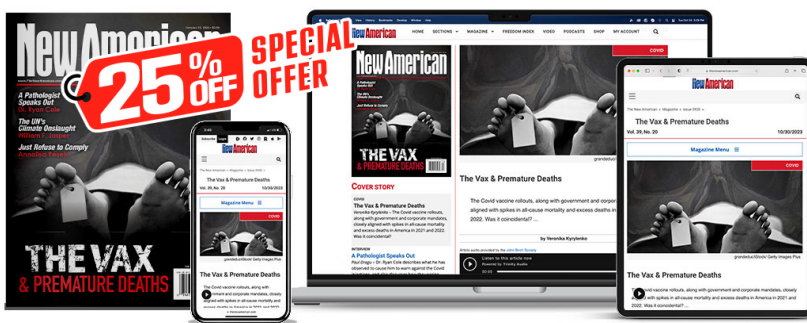


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