



Written by [Joe Wolverton, II, J.D.](#) on December 27, 2012

Nevada Legislature to Consider NDAA-Nullifying Bill

On December 19, the Nevada chapters of People Against the National Defense Authorization Act (PANDA) [announced the introduction of BDR 728](#), the Nevada Liberty Preservation Act. Sponsored by [Nevada State Senator Don Gustavson](#), the bill will be presented to lawmakers in February, when the state legislature reconvenes.



In a statement announcing the impending introduction of the bill, the Nevada state coordinator for PANDA, Christopher Corbett, said,

I appreciate the community support backing up our efforts and the courage of those members of our governing bodies who are willing to actively protect the constitutional rights of their constituents. We need to restore the Constitutionally protected right to due process for every American.

Any day now, President Obama is expected to sign into law the 2013 version of the NDAA. The president signed the 2012 bill into law on December 31, 2011.

The NDAA contains several unconstitutional provisions that are opposed by a broad spectrum of political action groups.

For example, Sections 1021 and 1022 of the 2012 act declare the United States to be a battlefield in the “War on Terror” and authorize the president of the United States to deploy the armed forces to arrest and indefinitely detain any American he suspects of supporting al-Qaeda, the Taliban, or “associated forces.”

Those Americans grabbed and imprisoned by the president will be afforded none of the due process measures guaranteed by the Constitution. Specifically, those accused by the president of supporting enemies of the state will be arrested and held without charge, will be detained without access to an attorney, and will be imprisoned indefinitely pending the end of the “War on Terror.”

During debate on the latest iteration of the act, Senators Rand Paul (R-Ky.), Mike Lee (R-Utah), and others passed an amendment to the bill protecting the right of a trial by jury to all citizens arrested under the NDAA. This language was subsequently stripped from the compromise version of the bill passed by the House and Senate.

In March during deliberations on the House version of the NDAA, Representative Justin Amash (R-Mich.) offered the only truly comprehensive amendment seeking to remove all unconstitutional provisions from the NDAA.

By a vote of 238-182, members of Congress [rejected the amendment offered by Amash and Representative Adam Smith](#) (D-Wash.) that would have repealed the indefinite detention provision passed overwhelmingly last year as part of the 2012 NDAA.

The Fiscal Year 2013 NDAA retains the indefinite detention provisions, as well as the section permitting



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prisoners to be transferred from civilian jurisdiction to the custody of the military.

“The frightening thing here is that the government is claiming the power under the Afghanistan authorization for use of military force as a justification for entering American homes to grab people, indefinitely detain them and not give them a charge or trial,” Representative Amash said during House debate.

Debate on [the Smith-Amash Amendment](#), as well as about 140 others began in the early, pre-dawn hours Friday morning.

In his impassioned speech supporting his amendment, Representative Smith reminded his colleagues that the NDAA granted to the president “extraordinary” powers and divested the American people of key civil liberties, as well as divesting civilian courts of their constitutional jurisdiction.

Smith pointed out that there was no need to transfer suspects into military custody, as “hundreds” of terrorists have been tried in federal courts since the attacks of September 11, 2001.

Congressmen — Republicans and Democrats — were not persuaded and they voted against Smith-Amash.

Nevada, seeing the writing on the wall, is preparing to defend its citizens against the federal government’s impending renewal of the power to rob Nevadans and all Americans of the due process rights that have been a part of Anglo-American liberty for nearly 800 years.

PANDA, a national, nonpartisan, grass-roots organization founded in January 2012, is pushing for passage of the Nevada resolution. The group is committed to the nullification of the NDAA’s unconstitutional authorizations at the state and local levels of government. Currently, there are over 90 chapters of PANDA throughout the United States with members involved in assisting legislators in drafting measures protecting citizens from the NDAA.

The three Nevada chapters of PANDA are laboring tirelessly to garner support and recruit co-sponsors of the NDAA nullifying resolution that will be introduced in February. Daphne Lee, Clark County chapter head, said, “We are working hard every day to restore the rights of every Nevadan, and will work tirelessly until we have succeeded.”

According to PANDA, [the Nevada chapters](#) of PANDA are among the most active in the nation. While introduction of BDR 728 is noteworthy, the group has successfully shepherded similar measures through local governments as well. PANDA reports that during the first quarter of 2013, nullification of the NDAA will be on the agenda for the [Washoe County Commission](#) and the [Reno City Council](#).

Thankfully, Nevada is not alone in its fight against federal tyranny. As *The New American* reported on December 6, members of the [Michigan State House of Representatives unanimously defended the Constitution](#), passing a bill stopping enforcement of the indefinite detention of Americans within the sovereign borders of the state of Michigan.

The courageous state legislator who introduced the bill was ecstatic over his colleagues’ decision to support his bill and support the effort to push back against federal consolidation of powers meant to be retained by the states. “My bill opposing NDAA’s indefinite detention and taking away due process and prohibiting Michigan government from participating passed the House today. Onto the State Senate,” said Representative Tom McMillin.

McMillin’s measure, HB 5768, would prevent the arrest and indefinite detention of citizens of his state under the authority of relevant provisions of the NDAA. According to the [text of the legislation](#):



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No agency of this state, no political subdivision of this state, no employee of an agency of this state or a political subdivision of this state acting in his or her official capacity, and no member of the Michigan national guard on official state duty shall aid an agency of the armed forces of the United States in any investigation, prosecution, or detention of any person pursuant to 50 USC 1541, as provided by the federal national defense authorization act for fiscal year 2012.

Led by Tenth Amendment Center state coordinator Shane Trejo, representatives from an impressive coalition of activist grass-roots groups devoted to the protection of individual liberty worked tirelessly to convince state lawmakers to back McMillin's bill and the principle of due process. The organizations leading the effort to whip up support included [People Against NDAA](#) (PANDA), the Campaign for Liberty, Downsize D.C., the Bill of Rights Defense Committee, and the ACLU, among others.

All Americans should be encouraged by the efforts underway in Michigan and elsewhere to enforce the 10th Amendment and to prevent the unchecked growth of the power of the federal government. The [10th Amendment mandates](#): "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In the statement issued by PANDA, Dennis Marburger of Bloomfield, Michigan, explained the critical role of the 10th Amendment in safeguarding the sovereignty of the states from the constant usurpations of Washington:

Thomas Jefferson called this the cornerstone of the Constitution. When Freedom of Speech was under attack by President Adams in 1798, Jefferson went to Kentucky in order to fight back through his Kentucky resolves where he enunciated the concept of Nullification, which he called the "rightful remedy" to D.C.'s lawlessness and violations of the Constitution. James Madison went to Virginia and wrote the Virginia Resolves calling for state interposition between the people and Feds when the latter unconstitutionally endanger the former. Thus was born "the Spirit of '98". The State of Michigan joined other Northern states in employing noncompliance / Nullification to resist the Fugitive Slave Act and government sanctioned kidnapping in the 1850's.

By passing similar anti-NDAA resolutions, counties and states can proudly join several other state and local authorities in taking a stand against the federal government's use of the NDAA to abolish centuries-old due process and habeas corpus protections, and help restore the states' rightful place as bulwarks of liberty.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at jwolverton@thenewamerican.com.



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