



Written by [Joe Wolverton, II, J.D.](#) on December 27, 2015

Florida Rep Files Measure to Force Feds out of Education

A resolution to be considered in 2016 by the Florida state legislature could set the stage for forcing the federal government out of the policymaking business in the arena of the education of that state's children.

State Representative Debbie Mayfield (shown) prefiled House Memorial 98 (HM 98). While the measure is not legally binding, Mayfield intends for the proposal to establish guidelines for more forceful action in the future.



Serving as the vice chair of the state House of Representatives Local and Federal Affairs committee as well as her "A" rating from the Foundation for Excellence in Education make Mayfield especially qualified to call out Washington, D.C. for its encroachment into an area of state and local concern.

Additionally, Mayfield's memorial is built on a solid foundation of federalism and the retention of plenary power by the states, as explicitly set forth in the Tenth Amendment to the U.S. Constitution.

The text of her measure, which cites the 10th Amendment, reminds representatives that the government of the United States has no authority to regulate education:

WHEREAS, the Tenth Amendment unequivocally sets forth that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, powers that the Federal Government may not usurp, and

WHEREAS, a federal role in education is a violation of the original intent of the Constitution of the United States and the Tenth Amendment, and

WHEREAS, nowhere in the Constitution of the United States is the Federal Government delegated the power to regulate or fund elementary or secondary education, and

WHEREAS, because education is not an enumerated power delegated to the Federal Government by the United States Constitution, it is reserved to the states respectively or to the people.

Not content to simply cite the constitutional amendment preventing federal intervention in the establishment of Florida's education standards, Mayfield includes language substantially similar to the Kentucky and Virginia Resolutions written by Thomas Jefferson and James Madison respectively. The memorial reads:

This memorial serves as notice to the Congress of the United States that it is the duty of the Florida Legislature to exercise its constitutional authority to resist and overturn any interference by the United States Department of Education or the United States Congress relating to Florida's academic standards and educational materials.

The Virginia and Kentucky Resolutions plainly set forth James Madison's and Thomas Jefferson's understanding of the source of all federal power. Those landmark documents clearly demonstrate what these two agile-minded champions of liberty considered the constitutional delegation of power. Jefferson summed it up very clearly and convincingly in the Kentucky Resolutions:



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That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a nullification, by those sovereignties, of all unauthorized acts done under colour [sic] of that instrument, is the rightful remedy.

James Madison's instructions in the Virginia Resolution of 1798 echoes the history rehearsed by his collaborator: "In case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them."

Representative Mayfield's memorial also maintains the spirit of the counsel given by James Madison in *The Federalist*, No. 45, wherein he recommended that state lawmakers "refuse to cooperate with officers of the Union" when the federal authority attempted to enforce any act not falling within its constitutionally enumerated powers. This memorial conforms to that counsel.

While admittedly this effort is not the sort of strong resistance to federal overreach our Founders would recommend, it could be the spark that lights the fire of nullification in the Sunshine State.

When the state House of Representatives reconvenes in January, a committee will consider whether to recommend this memorial to the body of the house for debate.

No serious debate should be entertained as to whether the national authority has repeatedly attempted to break down the boundaries placed by the Constitution around its power. From the beginning, our elected representatives have overstepped the limits drawn around their rightful authority and have passed laws retracting, reversing, and redefining the scope of American liberty and state sovereignty. Our sacred duty is to tirelessly resist such advances and exercise all our natural rights to restrain government and keep it within the limits set by the Constitution.

Nullification recognizes the authority of states to invalidate any federal measure that a state deems unconstitutional.

The power of a state to nullify an unconstitutional act of the federal government is predicated on the fact that the *sovereign states formed the union*, and as creators of the compact, they hold ultimate authority as to the limits of the power of the federal government to enact laws that are applicable to states and their citizens.

That our Founders understood this principle is demonstrated by Alexander Hamilton in *The Federalist*, No. 78:

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

If nullification is to be successfully deployed and defended, states lawmakers must remember that the Constitution is a creature of the states and that the federal government was given very few and very limited powers over objects of national importance. Any act of Congress, the courts, or the president that exceeds that small scope is null, void, and of no legal effect.

The Florida State House of Representatives House Memorial 98 is the first step toward taking back the



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power of that state to set standards for their schools and push the federal policy and policy makers out of the picture.

Photo: Florida state Representative Debbie Mayfield



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