



Oklahoma Legislator Introduces NDAA Nullifying Resolution

Another brave state legislator has joined the resistance to federal tyranny by defending the constitutional right of states to govern themselves. On February 3, Oklahoma Rep. Charles Key (R-Oklahoma City, left) offered a bill that would officially request that the Congress of the United States repeal Sections 1021 and 1022 of the National Defense Authorization Act (NDAA). Furthermore, the legal effect of those two sections would be void in Oklahoma.



In a press release accompanying the introduction of the bill, Rep. Key explained his motivation for putting forth the proposal:

President Barack Obama has said he would not hold citizens indefinitely; it is deplorable that he would sign into law legislation that contains clauses that would authorize him to do just that. Oklahomans have taken notice of this repugnant new law and as state lawmakers it is our duty to apply pressure to Congress and the president to undo this debacle.

This commendable attitude echoes that of another state lawmaker, Brian Nieves of Missouri, who [explained to *The New American*](#) his reason for sponsoring similar legislation in the Show Me State:

It is time for the members of the State Legislatures of this great Republic to stand up and assert the proper relationship between the several states and the federal government. For far too long I've heard state legislators say, "We can't do that — the feds won't let us," when instead, it should be members of our U.S. Congress saying, "We can't do that — the states won't let us!"

The preamble to the [15-page concurrent resolution](#) lays out an appropriate affront and a laudable tone for the Sooner lawmaker's determination to nullify illegal federal encroachment into the sovereign territory of the states. The proposal declares that

the National Defense Authorization Act for Fiscal Year 2012 is unconstitutional; directing Oklahoma Congressional Delegation to commence efforts to repeal certain sections of the act; expressing belief that the unconstitutional sections of the act are not enforceable within the state and prohibiting state officers from enforcing them; and directing distribution.

From there, the text of the bill lays out a well-reasoned response to the power afforded to the President by the NDAA to deploy the U.S. military to apprehend and indefinitely detain American citizens on mere suspicion of posing a threat to the security of the homeland.

For example, Rep. Key's resolution plainly and without reservation appeals to the Preamble to the U.S. Constitution, the Bill of Rights, and the Constitution of the State of Oklahoma for support of his defense of state sovereignty:



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[T]he NDAA contains provisions repugnant to the Bill of Rights contained within the Constitution of the State of Oklahoma and the Constitution of the United States of America; and

WHEREAS, the State of Oklahoma entered the Union in 1907 for the purposes described in the Preamble to the Constitution of the United States, to include securing the “Blessings of Liberty” for themselves and their “Posterity”; and

WHEREAS, the citizens of Oklahoma did “ordain and establish” the Constitution of the State of Oklahoma, including a Bill of Rights, many of which suffer violations and infringements of the Rights of the People at the direction of the NDAA; and

WHEREAS, the Oklahoma and United States constitutions are infringed, endangered, or usurped by provisions of the NDAA which authorize the “indefinite detention” of persons at the discretion of the President;

In order to enable his state’s official nullification of the NDAA, Key’s proposal explicitly directs that

no officer, employee, or agent of the State will implement, enforce or otherwise support, directly or indirectly, any such unconstitutional provisions, and that a violation of such policy will be deemed a violation of their oath of office or employment, and will subject them to discipline up to and including termination.

To his credit, Rep. Key is not convinced by the cadre of presidential lictors claiming that there is nothing new in the powers granted to the executive by the NDAA. His legislation recites chapter and verse from the text of the NDAA as testimony that it does indeed expand the scope of presidential power, at the same time as it constricts the scope of liberty promised to all Americans by our Constitution.

As evidence of the federal government’s novel attempt to obliterate the walls of states’ rights, Key catalogs at least eight violations of the federal Constitution enacted into law by Sections 1021 and 1022. The roster of constitutionally-guaranteed liberties effectively repealed by the passage of the NDAA includes:

[Article I \(habeas corpus guarantee\);](#)

[Article III \(definition of treason\);](#)

[Article III \(right to a trial by jury\);](#)

[Fourth Amendment \(protection against unreasonable searches and seizures\);](#)

[Fifth Amendment \(guarantee of the due process of law to all accused\);](#)

[Sixth Amendment \(right to the assistance of counsel\);](#)

[Eighth Amendment \(prohibition against cruel and unusual punishment — in the case of the NDAA, this would be indefinite detention\);](#) and

[14th Amendment](#) (the requirement that no state “enforce any law which shall abridge the privileges or immunities of citizens of the United States;” nor ... “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”).

And, finally, in case the point was not fine enough, HCR 1025 calls for the state legislature to declare that “no law is enforceable save those which are consistent with the moral unalienable rights given to



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all men by God, as declared in the Declaration of Independence and acknowledged in the U.S. Constitution....”

So, by the transitive properties of rights, the NDAA is inconsistent with the “moral unalienable rights given to all men by God.”

In the press release cited above, Rep. Key reiterated the urgent need for states to respond to this constitutional crisis:

It is so clear that this law is unconstitutional and it would be laughable if it were not so serious an issue that President Obama would talk about how his lawyers are ensuring that it would not be misused.

Americans all over this country are shaking their heads in disbelief.

As *The New American* has reported, lawmakers in [Virginia](#), Tennessee, and [Washington](#) have already proposed legislation thwarting the federal government’s attempt to enforce the NDAA at the state level — that is to say, nullifying an unconstitutional act of the federal government.

Basically, nullification is the principle that each state retains the right to nullify, or invalidate, any federal law that a state deems unconstitutional. Nullification is founded on the assertion 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 central government to enact laws that are applicable to the states and the citizens thereof.

Apart from his designation as the “Father of the Constitution,” James Madison may also rightly be called the “Father of Nullification.” Madison and Thomas Jefferson united in their opposition to the expansion of the federal government’s powers and gave expression to their stance in the Kentucky and Virginia Resolutions of 1798. The impetus for the drafting of these resolutions was the passage by the national government of four bills very similar in tone to the NDAA — the Alien and Sedition Acts. As with the NDAA, the unvarnished aim of these 18th-century statutes was to quash political dissension and silence foes of the administration then in power.

Constitutionalists can rejoice in the enlistment of another state in the forces of nullification standing strong against the ever advancing army of federal absolutism.

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