

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3180

By: Hays

AS INTRODUCED

An Act relating to state government; making findings related to the Constitution of the United States; prescribing procedures for nullification of certain actions; prescribing form of petition for nullification; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15001 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Federal action" includes federal law; a federal agency rule, policy, or standard; an executive order of the President of the United States; an order or decision of a federal court; and the making or enforcing of a treaty; and

2. "Unconstitutional federal action" means a federal action enacted, adopted, or implemented without authority specifically

1 delegated to the federal government by the people and the states
2 through the United States Constitution.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 15002 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 1. When "We the People" ordained and established the
7 Constitution of the United States of America, the people and the
8 states granted only specific, limited powers to the federal
9 government, with those areas of federal powers being enumerated in
10 Section 8 of Article I of the Constitution of the United States.

11 2. Articles I, II, and III of the Constitution of the United
12 States, respectively, vest the legislative, executive, and judicial
13 powers to and within separate branches of the federal government
14 (horizontal separation of powers), such that lawmaking powers are
15 vested only in the legislative branch of the United States Congress,
16 that enforcement powers are vested only in the executive branch
17 (President and executive agencies), and that judicial powers are
18 vested only in the judicial branch (Supreme Court of the United
19 States and other inferior federal courts created by the United
20 States Congress).

21 3. This horizontal separation of powers in the Constitution of
22 the United States reflects the understanding that our federal
23 Founding Fathers had derived from both scripture and experience that
24 sinful man could not be trusted to always be virtuous and public-

1 minded, and as such, they did not want undue power to be combined in
2 any branch of government where, if left unchecked, it could become
3 tyrannical.

4 4. Nothing in the Constitution of the United States permits
5 Congress to delegate or confer any lawmaking power to any other
6 branch of government, because it has no enumerated powers to create
7 lawmakers. When the President and federal courts are vested,
8 respectively, with the executive and judicial powers, neither of
9 those branches are granted general powers of lawmaking. Therefore,
10 no person, agency, or department of any other branch of the federal
11 government, not even the Supreme Court or the President of the
12 United States, has any lawmaking power under the Constitution of the
13 United States.

14 5. In paragraph 2 of Section 7 of Article I of the Constitution
15 of the United States, the text describes how federal laws are to be
16 made. Bills must be passed by both houses of Congress and then
17 approved by the President (or by a presidential veto by Congress).
18 This is the only method of lawmaking under the Constitution of the
19 United States. Thus, contrary to popular opinion, federal executive
20 orders, federal agency rules and regulations, and federal court
21 opinions are not laws at all, and they are certainly not settled law
22 or the supreme law of the land. Instead, any action by the
23 executive branch or the judicial branch that purports to be law, or
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1 that purports to be treated as law, is a usurpation of powers not
2 delegated to it.

3 6. It is not uncommon for Congress and the federal executive
4 branch to erroneously elevate federal court opinions to the status
5 of "law", sometimes even regarding court opinions as having amended
6 the language of the Constitution of the United States.

7 7. It is not uncommon for Congress and the federal courts to
8 erroneously elevate federal executive orders to the status of "law",
9 sometimes even regarding executive orders as having amended the
10 language of the Constitution of the United States.

11 8. The principle of "separation of powers" is so innately
12 representative of a republican form of government that the
13 Constitution of Oklahoma (Article IV, Section 1) upholds and
14 reinforces this principle of horizontal "separation of powers"
15 within the three departments of Oklahoma state government.

16 9. When creating a federal government by ratifying the
17 Constitution of the United States, the people and the states also
18 designed a second, and more important, "separation of powers," that
19 being a vertical separation of powers between the superior sovereign
20 states and the inferior federal government.

21 10. A vertical "separation of powers" was explicitly set out in
22 Section 8 of Article I of the Constitution of the United States,
23 wherein only limited, enumerated, lawmaking powers were granted to
24 the federal government.

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1 11. This vertical "separation of powers" was also incorporated
2 into the United States Bill of Rights, whereby:

3 a. in the First Amendment, Congress was specifically
4 denied lawmaking power within those fields listed in
5 the First Amendment,

6 b. in the Ninth Amendment, the federal government was
7 specifically prohibited from interfering with rights
8 not mentioned in the Constitution of the United
9 States, and

10 c. in the Tenth Amendment, the federal government was
11 specifically denied powers not delegated to it in the
12 Constitution of the United States.

13 12. This vertical "separation of powers" was generally well-
14 known by the people and the states, and was known and respected by
15 the federal government, for over one hundred (100) years of our
16 nation's history, but the principle has in more recent decades been
17 first disregarded, and subsequently even disbelieved, as if the
18 federal government was supreme in all areas and was unlimited in its
19 jurisdiction. Whether this shift in jurisprudence was intentional
20 or accidental, active or passive, the shift is nevertheless not
21 supported by the Constitution of the United States, by the laws of
22 the United States, or by the constitutions of any of the sovereign
23 states. The shift is thus an illegal usurpation of the Constitution
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1 of the United States, of the various state constitutions, and of the
2 unalienable rights of the people.

3 13. Any federal action that violates the horizontal "separation
4 of powers" imposed by the Constitution of the United States, or that
5 exceeds the jurisdictional limits imposed by the vertical
6 "separation of powers," is therefore void, since the Constitution of
7 the United States is the supreme law of the land.

8 14. "[A] law repugnant to the Constitution is void." An act of
9 congress repugnant to the Constitution of the United States cannot
10 become a law. The Constitution supersedes all other laws and the
11 individual's rights shall be liberally enforced in favor of him, the
12 clearly intended and expressly designated beneficiary. *Marbury v.*
13 *Madison*, 5 U.S. 137 (1803).

14 15. "An unconstitutional law is void and is as no law. An
15 offense created by it is not crime. A conviction under it is not
16 merely erroneous but is illegal and void and cannot be used as a
17 legal cause of imprisonment." *Ex parte Siebold*, 100 U.S. 371
18 (1879).

19 16. "An unconstitutional act is not law; it confers no rights;
20 it imposes no duties; it affords no protection; it creates no
21 office; it is, in legal contemplation, as inoperative as though it
22 had never been passed." *Norton v. Shelby County*, 118 U.S. 425
23 (1886).

1 17. "Where rights secured by the Constitution are involved,
2 there can be no rule-making or legislation which would abrogate
3 them." *Miranda v. Arizona*, 384 U.S. 436 (1966).

4 18. As Thomas Jefferson explained in the Kentucky Resolution of
5 1798: "Whensoever the [Federal] government assumes undelegated
6 power, its acts are unauthoritative, void and of no force." He
7 added, "Where powers are assumed which have not been delegated, a
8 nullification of the act is the remedy. That every state has a
9 natural right and duty in cases not within [the authority of the
10 Constitution]... to nullify of their own authority all assumptions
11 of powers by others within their own states boundaries." The
12 Constitution of the United States binds federal lawmakers by oath to
13 support the Constitution, and when they fail to do so, the rightful
14 remedy is for states to nullify their usurpations and to declare
15 their acts void.

16 19. Every constitutional officeholder, whether local, state, or
17 federal, must first know and understand these important
18 constitutional limitations of power, and thereafter, must determine
19 individually how best to defend the rights of the people and to
20 fulfill the oath of office. As illustrative of this principle, in
21 1832, Andrew Jackson, as President, vetoed a bill to recharter the
22 Bank of the United States.

23 President Jackson opposed the bank's political power and
24 financial influence, but his veto was based substantially on
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1 constitutional grounds, notwithstanding the judgment of prior
2 Presidents and Congress, not to mention the Supreme Court's decision
3 upholding the bank's validity. President Jackson argued that the
4 "separation of powers" principle meant that none of the branches of
5 the federal government can pretend to have exclusive or supreme
6 right to settle constitutional differences of opinion among them,
7 since each public officer who takes an oath to support the
8 Constitution swears that he will support it as he understands it,
9 and not as it is understood by others. He further said the opinion
10 of judges has no more authority over congress than the opinion of
11 congress has over judges, and on that point, the president is
12 independent of both of them.

13 20. President Andrew Jackson's veto illustrates that every
14 officeholder must reach an independent judgment about the
15 jurisdictional scope of the federal government under the
16 Constitution of the United States and must thereafter act
17 consistently on those judgments.

18 21. The Constitution of the United States assures the people
19 and the states that their respective rights and powers will be
20 respected by the federal government.

21 22. Each member of the Legislature shall, before they proceed
22 to business, take an oath or affirmation to support the Constitution
23 of Oklahoma, and of the United States, and also the following oath:
24 "I _____ do solemnly swear (or affirm) that as a member of this
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1 Legislature, I will, in all appointments, vote without favor,
2 affection, partiality, or prejudice; and that I will not propose or
3 assent to any bill, vote, or resolution, which shall appear to me
4 injurious to the people, or consent to any act or thing, whatever,
5 that shall have a tendency to lessen or abridge their rights and
6 privileges, as declared by the Constitution of this state."

7 23. The people are the ultimate source of human governmental
8 power under our constitutions, and the states, through their elected
9 officers, are dutybound to fulfill their oath of office to preserve
10 the rights of the people, it is therefore long overdue, and
11 therefore urgently necessary, for this state to prescribe the manner
12 in which, under the authority of the Constitutions of the United
13 States and of Oklahoma, the people's rights and the state's
14 sovereignty may be asserted as against federal officeholders,
15 whether individually or collectively.

16 24. This act is written to aid the people and the government of
17 this state in the implementation and enforcement of the various
18 provisions of the Constitution of the United States that expressly
19 limit federal power and federal jurisdiction, and in furtherance of
20 the rights of the people as set forth in Section 1 of Article I and
21 Section 2 of Article I of the Constitution of Oklahoma.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 15003 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:
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1 This act contemplates the review of any federal action to
2 determine whether the action is an unconstitutional federal action.
3 When evaluating a federal action, the Legislature shall consider the
4 plain reading and reasoning of the text of the United States
5 Constitution and the understood definitions at the time of the
6 framing and construction of the Constitution by the framers before
7 making a final declaration of constitutionality, as demonstrated by:

8 1. The ratifying debates in the several states;

9 2. The understanding of the leading participants at the
10 Constitutional Convention;

11 3. The understanding of the doctrine in question by the
12 constitutions of the several states in existence at the time the
13 United States Constitution was adopted;

14 4. The understanding of the United States Constitution by the
15 first United States Congress;

16 5. The opinions of the first Chief Justice of the United States
17 Supreme Court;

18 6. The background understanding of the doctrine in question
19 under the English Constitution of the time; and

20 7. The statements of support for natural law and natural rights
21 by the framers and the philosophers admired by the framers.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 15004 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:
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1 It is declared that federal laws, federal executive actions, and
2 federal court opinions must comply with the jurisdictional
3 limitations of the United States Constitution. It is further
4 declared that any federal action outside the enumerated powers set
5 forth in the United States Constitution are in violation of the
6 peace and safety of the people of this state, and therefore, said
7 acts are declared void and must be resisted.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 15005 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 The proper manner of resistance is a state action of
12 nullification of the federal action.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 15006 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Nullification is the process whereby this state makes an
17 official declaration that:

18 1. A specific federal action has exceeded the prescribed
19 authority under the United States Constitution;

20 2. That said action, as being ultra vires, will not be
21 recognized as valid within the bounds of this state;

22 3. That said action, as being ultra vires, is null and void in
23 this state;

1 4. That an officeholder, agency, or government employee,
2 whether state, county, or city, serving under the authority of the
3 Constitution of Oklahoma shall not assist in any attempted
4 enforcement of said federal action; and

5 5. That state or local funds collected under the authority of
6 the Constitution of Oklahoma shall not be used to assist in any
7 attempted enforcement of said federal action.

8 B. The Legislature has sole authority to prescribe the crimes,
9 penalties, fines, or other consequences of the violation of a bill
10 of nullification by any person found within the boundary of this
11 state. Said consequences must be specified in the bill of
12 nullification before a final vote is taken on its passage.

13 SECTION 7. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 15007 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 State nullification of federal action may be accomplished in any
17 of the following ways:

18 1. The Governor may, by the Governor's own executive authority,
19 issue an executive order nullifying the same, whereby all executive
20 departments of the state are bound by said order;

21 2. Any member of the Legislature may introduce a bill of
22 nullification in the Legislature. For any such proposed bill of
23 nullification, the bill is not subject to debate or passage in
24 committees, and proceeds directly to the floor of each house, where
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1 said bill shall, within five (5) legislative days, be scheduled for
2 debate on the floor of each house, and thereafter, within three (3)
3 legislative days after the debate is closed, shall be presented for
4 a roll call vote on each floor. The bill, if passed in the same
5 manner as other general law, has the force and effect of law, and
6 becomes effective immediately upon enactment. The time constraints
7 listed in this paragraph may be changed by majority vote of any
8 house of subsequent general assemblies;

9 3. Any court operating under the authority of the Constitution
10 of Oklahoma may render a finding or a holding of nullification in
11 any case of which it otherwise has proper venue and jurisdiction,
12 wherein the parties to said case will, upon final judgment, be bound
13 thereby in the same manner as in other cases;

14 4. Any combination of ten (10) counties and municipalities may,
15 through the action of the executive or through the action of a
16 majority of the governing legislative body, submit a petition of
17 nullification to the Speaker of the Oklahoma House of
18 Representatives, with a copy to the Office of the Attorney General,
19 and upon satisfactory proof that said petitions are valid, the
20 Speaker of the Oklahoma House of Representatives shall proceed to
21 introduce the bill and follow the same methods and protocols as
22 described in paragraph 2 of this section; and

23 5. Subject to the requirements of this paragraph, the signed
24 petitions of two thousand (2,000) registered voters of this state
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1 may submit a petition of nullification to the Speaker of the
2 Oklahoma House of Representatives, with a copy to the Office of the
3 Attorney General, and upon satisfactory proof that said signatures
4 are valid, the Speaker of the Oklahoma House of Representatives
5 shall proceed to introduce the bill and follow the same methods and
6 protocols as described in paragraph 2 of this section. Said voter
7 petitions must not be submitted individually, but said petitions
8 must be coordinated and compiled in batches, by county of voter
9 registration, of not less than twenty-five (25) voters per county in
10 a bundled batch. In addition to the other requirements of this
11 paragraph, at least twenty-five (25) signatures of the total number
12 of signatures shall be required to have been obtained from the
13 residents of two-thirds (2/3) of the seventy-seven (77) counties of
14 the state which shall for purposes of this provision be counted as
15 fifty-two (52) counties of the state.

16 SECTION 8. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 15008 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 Before conducting a roll call vote on the floor of each house of
20 the Legislature, the several committees of the Legislature may
21 debate any bill of nullification, express its approval or
22 disapproval, and add any penalty for violations of the bill. The
23 results of all committee actions, as well as the result of the roll
24 call vote on each house floor, shall be published in the official
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1 records of each chamber and disseminated to the people in the same
2 manner as with other bills.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 15009 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 The procedures contained in this act are available to challenge
7 any federal action, whether said action is past, present, or future.
8 A bill of nullification must not be rejected because of any
9 perceived statute of limitation or because said federal action was
10 taken in the distant past. Any federal action may be considered, or
11 reconsidered, as the people or their representatives may think
12 proper.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 15010 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 Regarding the same federal action, a bill of nullification must
17 not be considered by the Legislature more than once each year. If
18 said bill fails, then it may be considered again in any succeeding
19 year, but not more than once per year.

20 SECTION 11. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 15011 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:
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Formal pleadings or petitions are not required for a bill of nullification. It is sufficient if the pleading or petition is in substantially the form as set forth below:

Petition for Action Under the
"Restoring State Sovereignty Through Nullification Act."

Regarding your claim that the federal government has exceeded its authority under the U.S. Constitution, please list the following:

1. Date or Year of federal action: _____
2. Identify the federal branch, official, or agency:

3. Give the official name of the action, if known. If not known, then give the name by which the action is commonly known or identified: _____

4. Identify the specific action, or part of the action, that you assert is unconstitutional:

Identification of Petitioner (Registered Voter):

Signature Printed Name

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_____ Street Address, City, County – Must
match voter registration.

SECTION 12. This act shall become effective November 1, 2024.

59-2-8566 MAH 01/16/24