

2012 Michigan Senatorial Candidate Questions

Introduction: The Constitutional definition of the role of a United States Senator.

Article I, Section 3 of the Constitution sets three qualifications for senators: 1) each senator must be at least 30 years old, 2) must have been a citizen of the United States for at least the past nine years, and 3) must be (at the time of the election) an inhabitant of the state he or she seeks to represent. The age and citizenship qualifications for senators are more stringent than those for representatives. In Federalist No. 62, James Madison < http://en.wikipedia.org/wiki/James_Madison > justified this arrangement by arguing that the "senatorial trust" called for a "greater extent of information and stability of character."

The Founders hoped Senators would be more likely to consider the long-term effects of legislation and practice a more mature, thoughtful and deeply deliberative approach in their deliberations.

The Senate has several exclusive powers not granted to the House, including consenting to treaties as a precondition to their ratification and consenting or confirming appointments of Cabinet secretaries, federal judges, other federal executive officials, military officers, regulatory officials, ambassadors, and other federal uniformed officers as well as trial of federal officials impeached < http://en.wikipedia.org/wiki/Impeachment_in_the_United_States > by the House. http://en.wikipedia.org/wiki/United_States_Senate

Vetting Questions:

I. Constitutional Duties;

1. What is your understanding of your prescribed constitutional role and duty as a US Senator? Please elaborate.

A Senator takes an oath to support and defend the Constitution (Article VI). While specific duties are enumerated, one roll that was served by the Senate as a house of Congress was to ensure equal representation of all states. In the absence of the Senate, People who lived in more populous states could elect representatives who would neglect the interests of people in less populous states. Taken together, the two Houses should require a bill to satisfy both those representing the majority of states, and the majority of individual voting citizens in order to advance to the President for signing. (The process is outlined in Article I. Section 7)

The qualifications and some specific duties, including the trying impeachments, are outlined in Article I. Section 3. Section 7 grants the Senate the power to amend bills that raise revenue. As part of Congress, the senate may exercise, if in concurrence of the House, the powers enumerated in Article I. Section 8.

Article II. Section 2. Gives the Senate the roll of advising on, and consenting to treaties and a variety of presidential appointments. One of type of appointment that requires Senatorial consent is Justice of the Supreme Court.

2. Do any Senate ratified treaties take precedent over the US Constitution? No.

If so why? My answer was "No" but I would be remiss if I did not point out the importance of Article 6 in this matter.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

There is noting placing any Treaties above the US Constitution and to do so would invoke contradictions and circular arguments, but it does place treaties above state laws in judgments made about them. This provides a potential Constitutional means by which The Senate and President could conspire with foreign governments to bypass state powers guaranteed by the 10th amendment.

If not what would you do to repeal their effects? I would fail to consent to proposed treaties that have any language that was unconstitutional, or would serve to circumvent the roll of the 10th Amendment. There are circumstances where it is appropriate to make state laws subservient to treaties. For example, if a treaty permitted goods to be imported duty free, the states should not be able to impose a duty. If a treaty grants diplomat status to certain individuals, states should not be allowed to neglect their immunity. In each of these cases, the states are playing a roll in foreign relations that is in conflict with a treaty.

The line of distinction should be drawn when the treaties application exceeds matters of international relations and serves as a restriction on intra-state commerce or personal exercises of liberty.

3. Do you agree that restoring the federal government to its constitutional mandates will reduce adverse manipulation of our capitalistic economy, intrusion on our property rights and shrink the scope of government and its cost to the American People?

Yes.

How do you propose to implement your goals?

By voting in favor of, and proposing legislation designed to eliminate or phase out Federal activities that exceed the enumerated powers. If a power isn't enumerated, than Congress must not pass a law that exercises it. I would support the repeal of laws that exceed these powers, and would vote against laws that contain toxic clauses wherein the well-intentioned might trade more liberty in one area for more tyranny in another. If a bill is too long to read in the time allotted, my vote will be "No." In some cases it may be appropriate to assign knowledgeable members of my staff to read portions of a bill, but there still must be time to review their findings before a positive vote.

4. Are there any executive orders implemented by the Executive, (any of them) that you know are an affront to the Congress and the Constitution? Executive orders normally lack Constitutional sanction, but it is assumed that the president has control of internal rules of the executive branch, so long as these rules do not conflict with laws. This includes requiring staff and subordinates to write reports. Presidents have made proclamations that fell short of having the force of law and were benign such as when George Washington "recommend to the people of the United States a day of public thanksgiving."

Some orders issued by the president are not typically referred to as executive orders, but are Constitutional and appropriate. The most obvious is the issuance of orders to the military by their commander in chief.

The most problematic orders are those that are regarded as having the force of law on par with a legal statute. The justification given, in some cases, is that Congress has granted powers to the president to enact certain rules. This is dangerous, and in most cases unconstitutional. Article I. Section 1 clearly says, "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." When combined with the Supremacy clause, there is no way a bill passed by Congress can supersede the separation of powers. To do so, is at best, an act of sloth or cowardice by legislators who don't want to bother with the passage of laws, or which to pass responsibility for unpopular choices to someone else such as the president. At worse, this is a deliberate attempt to undermine the foundations of this republic.

One recent case of such abdication of authority are the detainee provisions of the NDAA that give the president supra-judicial authority in the indefinite detention of persons on American soil (by troops) without due process.

Perhaps the most overtly unconstitutional orders are those issued by a president when he can't get the legislature to pass a law that does the same thing. Bill Clinton created vast national monuments with Proclamation 6920, which he justified using a tortured interpretation of the Antiquities Act.

Some executive orders seem designed to impose tyranny. Franklin D. Roosevelt enabled the wonton theft of gold by Federal Reserve banks (Executive Order 6102) and the forced imprisonment of innocent Japanese Americans (Executive Order 9066). A number of executive orders aspire to give vast powers to FEMA, in the event that the President declares a "National Emergency." This begins in 1962 with John F. Kennedy. There is nothing in the Constitution authorizing this:

- Executive Order #11051: designating FEMA as the authorized agency to implement the above orders, and which authority can be re-designated by the original authority.
- Executive Order #11490: combining all the above to be enacted in one fell swoop; on July 20, 1979 Carter added a few minor amendments to them.
- Executive Order #12919: which appears to encompass all of the Executive Order's.
- Executive Order #10995: Seizure of all communications media in the United States.
- Executive Order #10997: Seizure of all electric power fuels and minerals, public and private.
- Executive Order #10999: Seizure of all means of transportation, including personal cars, trucks or vehicles of any kind and total control of highways, seaports and waterways.

- Executive Order #11000: Seizure of all American people for work forces under federal supervision including the splitting of families if the government finds it necessary.
- Executive Order #11001: Seizure of all health, education and welfare facilities, public and private.
- Executive Order #11002: Empowered the postmaster general to register all men, women and children in the U.S.
- Executive Order #11003: Seizure of all airports and aircraft.
- Executive Order #11004: Seizure of all housing and finance authorities to establish Forced Relocation Designated areas to be abandoned as "unsafe."
- Executive Order #11005: Seizure of all railroads, inland waterways and storage facilities, public and private.
- Executive Order #12919: Signs June 3, 1994, by President Clinton. Encompasses all the above executive orders.

I would support legislation that specifically contradicts offending Executive orders. Since legislation from Congress is constitutional it should supersede the any conflicting E.O. I would also oppose any legislation that serves to enshrine or enable offending E.O.'s

5. Do you believe the Framers were in error in providing for the election of Senators by the State Legislatures and if so do you believe the 17th Amendment, (ratified during the Wilson administration), is the proper solution?

This is not a hot button issue for me, but I have an opinion that will likely be unique (compared to other conservatives, libertarians and Constitutionalists), so I feel compelled to explain my reasoning in some depth.

It (selection of Senators by State legislatures) was a pretty good idea at the time. Delegates to the Congress of the Confederation had already been selected in this manner, so it was prudent to have a house of the Congress that was selected in this familiar tested fashion. The word "Gerrymander" did exist until 1812. I do think the framers made an understandable error in not seeing how the same selection process could be abused in the 21st century:

The original intent was that citizen electors choose their representatives, and not the other way around. Currently both houses of the state legislature are composed of Gerrymandered districts. By

Gerrymander I mean that the boundaries of the districts are set by establishment politicians and parties (guided by special interests) to secure the victory of their people in elections. As a result, the will of the state legislature can contrast sharply with the will of the citizens of that state. In Michigan this can be documented by a look at ballot initiatives that have been passed by a majority of citizens of the state. While I sharply disagree with some of them, over-all there is a greater tendency for liberty found in the initiatives than in the state legislature: Eminent domain reform, medical marijuana initiative, and MCRI, Hadley amendment. None of these lend support to Federal expansion, but rather stand in opposition to some federal policies. Even an initiative I opposed, defining marriage, served as a position taken by residents of the state in contrast to some federal policies. None of these initiatives would have been introduced had the state legislature properly represented their constituents.

Currently Congressional district boundaries have become a political football in Federal courts. These cases have cited the voting rights act, and districting plans favorable to Republicans have been targeted with allegations of racial Gerrymandering. If state legislative districts were still a part of the Senatorial selection process, they would be further subject to federal manipulation and oversight.

The 17th Amendment was not originally intended to remedy these problems, but an unintended consequence of its ratification is that the Office of United States Senator is immune to the Gerrymandering of districts, unlike other legislative offices.

Would you introduce/support a repeal of the 17th Amendment?'

The repeal of an Amendment requires the introduction of a new amendment. My support or opposition would depend on the wording of that amendment. An amendment that simply reverted to the previous process would have unintended adverse consequence in the current context; without an anti-gerrymander amendment or clause reverting to Article I. Section 3, would shift power from the people of this state to establishment players in the major parties who answer to moneyed interests outside the state. Also, State legislative district boundaries would become more subject to litigation in Federal courts.

An anti-gerrymander amendment would be one that simply gives an upper limit to the ratio of perimeter to area of a legislative district. While this would not block all manipulation, it would prevent district from having the spikes and such that current ones have.

But if the real intent is to empower the states, why revert back to a federally mandated selection process at all? Since the repeal of an amendment takes the form of a new amendment, why not do it right:

"The Senate of the United States shall be composed of two Senators from each State, selected in a manner specified by the laws thereof, for six years; and each Senator shall have one vote. When vacancies happen in the representation of any State in the Senate, the State shall fill such vacancies: Provided, The state may make temporary appointments until it fills the vacancies as its laws so direct. States may recall Senators in a manner specified by the laws of the state that selected them.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

I *would* support the above wording as a repeal of the 17th Amendment.

[A note on Constitutional amendments in general: Given that amending the Constitution is far more difficult than replacing politicians through election, I am cynical of the general notion that we should fix the system with Constitutional amendments. If voters had a zero tolerance approach to politicians who neglect the current Constitution, most of the problems we seek to remedy, this way, would not arise.]

6. Describe your plan for solving Illegal immigration.

Securing the border is a core function of the Federal government. Illegal immigration is unfair to legal immigrants. People who attempt to immigrate illegally should get go back to the end of the line. That being said, immigrants are rarely the problem, government policy is the problem: Criminal activity along the border is largely supported by drug prohibition, and government handouts attract immigrants who have no other means of support. Worse yet, government agents arm members of criminal organizations who are known to be involved in murders and kidnappings along the boarder (as with Eric Holder's "Fast and Furious" operation).

Are we being invaded on our Southern border? Not literally, though similarities exist.

This is sensationalistic language that does little to identify or remedy the actual problems. While there have been occasional incursions by Mexican forces, the phrase "invasion" implies a deliberate and organized effort. I don't think the Mexican government has ordered its troops to invade. The problem has been with our own government that provides incentives to illegal immigrants, impediments to state efforts to address problems, and negligence in defending the border.

Is the military a probable first step to solving this problem?

Parts of the military, other steps may be simultaneous or sooner...

Specifics matter here: The first steps involve eliminating policies that encourage illegal immigration and fuel boarder violence (as mentioned above). Some portions of the military should play a roll. The Navy needs to be more fully deployed near our coast, and needs to be largely re-tasked to coastal defense rather than facilitating foreign occupation.

The United States Army should not be playing the roll of boarder guard on United States soil, however the National Guard should. Many troops returning from foreign conflicts and occupation could be re-assigned to the National Guard to assist with border patrols.

Finally, I believe reform of legal immigration is in order. Immigration eligibility should be based on the ability of the immigrant to be a self-supporting member of American society, rather than being admitted or turned away based on arbitrary quotas. A former New Mexico (border state) Governor Gary Johnson has suggested worker visas modeled after student visas. This would allow businesses to decide who would be an asset to domestic businesses, and would reduce the current trend toward out-sourcing. Such visas could be issued on a temporary basis with the visa holder expressing an understanding that it is not a path to citizenship.

7. There have been recent disclosures of agenda driven research on Global Warming/Climate change, do you believe global warming is real?

In General. Maybe. Man-Made. Not.

It is important to distinguish the idea of global climate change from the *Man-made Global Warming Hypothesis*. There is a huge volume of independent scientific evidence that the Earth's climate changes over time. Michigan was carved by glaciers, for instance. While it is the nature of scientific inquiry that everything is open to question, I would expect the temperature to be on an upswing based on the warm periods that punctuate ice ages.

By contrast the *Man-made Global Warming Hypothesis* has been pushed in a pseudo-scientific manner by governments, and scientists compromised by government payments. It has also been embraced by globalists and socialists as a justification for invasive policies. Since all human activity (including breathing) creates some greenhouse gases, it serves as a justification to force reductions in industry and population. The contribution of human activity is routinely exaggerated, while feedback mechanisms like stimulation of plant growth are neglected.

To what extent?

I don't think human activity has had a significant affect on global temperatures or climate change. Some climate change is to be expected from non-human causes.

Would you devote government resources and monies to this area? Absolutely not!

I should add, however, that the greatest expense is not in the area of spending, but rather in the area of regulation. The harmful affects of discouraging industry and economic growth will prove much more costly than mere government waste.

8. Describe what you know about Agenda 21 and ICLEI, what it, who is involved, is it an effort you would support and use Federal monies and resources to further?

ICLEI stands for International Council for Local Environmental Initiatives. It is an international association of local governments and national and regional local government organizations that have made a commitment to what they call "sustainable development." It was established when local governments from 43 countries convened at its inaugural conference, the World Congress of Local Governments for a Sustainable Future, at the UN in New York City in 1990. The very notion of the United Nations by-passing the sovereign national government to form a trans-national association of local governments is an affront to national sovereignty, federalism and local autonomy. While participation is voluntary this movement toward globalizing local affairs is reckless and can serve to legitimize claims to UN authority by globalists.

While the phrase, "sustainable development," sounds reasonable in it's literal meaning, it is code for Central planning by the United Nations and it's affiliates to be implemented by regional governments. Central planning on the national level has consistently proven to be a disaster compared to the free market. Global central planning is bound to be worse.

Agenda 21 uses concern about the environment as an excuse for broad-based central planning. This is so pervasive that many reasons could be cited, but I suppose I could sum it up by stating that these documents take the form of directives that seek to micromanage the life of people. These directives are not just the writings of a random utopian author, but are a manifesto of the United Nations globalist agenda. National sovereignty and individual rights take a back seat in this grand scheme. It is yet another reason to get out of the United Nations while we still can.

I would object to any legislation or appropriations to further these schemes. This includes an immediate end to the flow of taxpayer dollars to the United Nations.

II. Judiciary;

1. What are your requirements for judicial appointments? Please discuss the recent appointments of Sotomayor and Kagan.

I would require the judges to be knowledgeable in law as well as demonstrating a deep understanding of the United States Constitution. Prior judicial experience or exceptional scholarship would be necessary. Some track record in publications or professional activity would be essential to verify sincerity by judges being interviewed for higher level offices.

I would be listening for judges who would apply the law to cases being heard, and not attempt to legislate from the bench. While the law may need to be applied to circumstances the writers did not foresee, the meaning read must correspond to the meaning intended. This is the essence of reading the law through the lens of original intent. When legal precedence clearly conflicts with the Constitution, I would want a judge who would recognize the supremacy of the Constitution over precedence. In many case precedence is the application of bad decisions to justify future bad judgments.

Justice Sonia Sotomayor, had significant judicial experience, but she failed to apply the Section 1 of the Fourteenth Amendment of the Constitution in the case of *Ricci v. DeStefano*. In this case she failed to rule in favor of firefighters who were discriminated against by a municipal employer.

In the case of *Maloney v. Cuomo* Sotomayor demonstrated ignorance of the Second Amendment by ruling that it only prevented Congress from infringing on the right to keep and bear arms and not the states: *"It is settled law, however, that the Second Amendment applies only to limitations the federal government seeks to impose on this right,"* said the opinion. *Quoting Presser, the court said, "it is a limitation only upon the power of Congress and the national government, and not upon that of the state."* Apparently she got it confused with the first Amendment which starts with the words, "Congress shall make no law..." as contrasted with the Second Amendment which closes with the phrase, "...shall not be infringed." Even so, the fourteenth amendment extends rights that were initially for federal jurisdictions to all of the states. I would not confirm an appointee who demonstrated such ignorance or disregard on Constitutional matters.

Prior to being confirmed, Justice Elena Kagan demonstrated a contempt for the First Amendment in the case of *Citizens United vs. FEC*. Here she argued that publications or films could be banned by the Federal government depending on who paid to make them and what political biases were present. It is

unclear how she would apply the law as a judge since she had no judicial experience. Higher standards are in order for such a critical job.

2. What determines a breach of oath?

The key component of a Senators Oath of office is to support and defend the Constitution. As a public servant it is essential that a Senator only exercise powers authorized by the very document that creates the office. A federal officer needs to realize that without the Constitution that office does not exist. This means affirmation requires each person who makes the oath to be self-governing; not waiting for the Supreme Court to exercise judgment after the fact. Every officeholder must, to the best of his or her judgment, act as the Constitution dictates, and exercise appropriate authority to ensure that others comply as well.

An impeachable offence?

"Treason, bribery, or other high crimes and misdemeanors" (Article II, Section 4)

Is a breach of the oath of office an impeachable offence? Arguably it is. While not explicitly listed, the phrase "high crimes and misdemeanors" can be interpreted to include such an act of perjury. According to Alexander Hamilton "The objects of impeachment are those offenses which proceed from the misconduct of public men or, in other words, from the abuse or violation of some public trust. Clearly breaking ones oath of office would qualify under Hamilton's criteria.

As a betrayal of this nation, violation of the oath could be construed as treason, but it does not meet the Constitutional definition: Article III Section 3 says, "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court." So simply violating the oath may not qualify unless it rises to the level of, "adhering to" the Enemies of the United States.

3. Will you use the Legislative branch to rein in Judiciary legislative initiatives?

Executive branch initiatives? Yes and Yes. Here I assume you mean actions by the judicial or executive branches that exceed their authority.

III. Accountability;

1. How will you communicate with the people who send you to office? I will keep a blog on my activities current on the internet. I will have an online newsletter available, and send hardcopy versions to those who request them. I will reply to concerns via email and snail mail. I will have a competent staff take phone calls and respond in person when able. I will hold town hall meetings in Michigan while the Senate is not in session.

2. Will you pledge to daily post and identify the source of any offerings of gifts, trips, donations to your election/re-election campaign that you are offered from lobbyists, PACS or organizations and whether or not you have accepted them?

Yes.

What have you received to date and from whom?

I have not received anything (other than endorsements) from lobbyists, PACS or organizations.

3. Would you immediately start to reform entitlement programs that have driven the United States to insolvency? Yes.

How would you do this?

Introduce, amend, and vote on legislation to accomplish the following objectives:

- a. Repeal the “Patient Protection and Affordable Care Act “ (Obama-care). This could take the form of approving waivers to all states.
- b. Transferring programs not enumerated in the United States Constitution to the states.
- c. Phasing out Federal Social Security while fully meeting our obligations to those already dependent on it, or heavily vested in it.

While I don’t think state-level welfare programs are advisable, they would be Constitutional, so to the degree that proponents of so-called entitlements (government run social programs) believe they are necessary, they can be administered and funded by state governments.

IV. Electability;

1. Currently how many signatures do you have on all nominating petitions? Approximately 1,000, many petitions are with volunteers out in the field so an exact count is not possible.

2. How much money do you have in your campaign? \$2,500 raised. \$1,800 on-hand. About \$5000 in pledges remain to be collected.

3. How significant is money in this race? Very. I have a number of fundraising plans in the works.

4. What do you believe is the role of the Tea Party/Patriotic Citizens Groups in American today? To hold politicians accountable. Currently, elected officials spend people’s money without regard to the hardship their actions bring, and exercise power without regard to Constitutional limits. They keep doing this because people keep voting them back into office. Grassroots organizations like those in the TEA Party movement can stop that from happening.

5. If elected as the junior Republican Senator from Michigan, will you break from the party if the party breaks from the Constitution? Yes. Full disclosure, I am not exactly a loyal servant of the Republican Party establishment. I am not as interested in winning one for the team, as I am in restoring liberty. Getting elected without fixing this broken system is a failure, not a victory.

i.e. the FED, raising the debt ceiling, bailing out private institutions, bailing out foreign institutions, increasing entitlements vs. phase them out? These are the reasons I am compelled to run. I often say I get into politics because it gets into me. In other-words, I would be happy to stay out of politics, if the politicians would leave people alone and get out of prosperities way.

6. As Nominee, what are the key issues about you, past and present, that the opposition will use against you. Remember that we will also have to defend you so be very thorough.

- a) My consistent stand for liberty and the Constitution. Regrettably, it is controversial to have such views and many people find objection.
- b) My long history with the Libertarian Party. I have no apologies for this, but many will say I am not a real Republican, or call me a RINO. I put principal before party. Electing Republicans is only something to celebrate if they move us in the direction of liberty, peace, and prosperity.
- c) I used to be in a Punk Rock band; not that there is anything wrong with that. Some people might think that is just odd for a Senate candidate.
- d) As a teacher I have repeatedly been subject to background checks without incident. However, when I volunteered for my neighborhood CB Patrol (sort of a neighborhood watch), the Detroit Police dug up an alleged open charge of property damage in Kalamazoo. The date (in 1983) associated with this record matched a date on which I was arrested in the vicinity of a campus snowball fight (*Yes. A snowball fight*) and **released without charge**. I contacted every jurisdiction in Kalamazoo (including WMU), and they assured me there were no open charges. Somehow this false information is in a state database even though the alleged originator of the information repudiates it.