



Written by [Joe Wolverton, II, J.D.](#) on March 13, 2013

Michigan Senate Unanimously Passes NDAA Nullification Bill

[By a vote of 37-0](#), the Michigan state Senate approved a bill preventing the president from executing the indefinite detention provisions of the National Defense Authorization Act (NDAA) inside the sovereign borders of the Wolverine State.

[Senate Bill 94](#) — a companion measure to House Bill 4138 passed unanimously by the state House of Representatives last year — prohibits “any agency of this state, any political subdivision of this state, any employee of any agency of this state or any political subdivision of this state, or any member of the Michigan national guard from assisting an agency of the armed forces of the United States in the investigation, prosecution, or detention of any citizen of the United States” under certain situations.



Particularly, the bill applies to any attempt by a state agent or officer to enforce “section 1021 of the national defense authorization act for fiscal year 2012, if such aid would place that state agency, political subdivision, employee, or member of the Michigan national guard in violation of the United States constitution, the state constitution of 1963, or any law of this state.”

Following the state senate’s overwhelming support for the bill sponsored by Senator Rick Jones, the director of the Michigan chapter of the People Against the NDAA (PANDA), Dennis Marburger, committed to continue the fight to defy all acts of the federal government encroaching on the liberty of citizens of Michigan.

“The very active and knowledgeable group of Michiganians fighting this egregious Federal overreach will not rest until there is real, tangible and viable state resistance to D.C.’s attempts to deny our rights and threaten our safety — whatever unconstitutional legislation, edict or judicial fiat our government employees use as an excuse,” [Marburger said](#).

[Sections 1021 and 1022 of the 2012 NDAA](#) purport to grant to the president the power to deploy the U.S. armed forces to apprehend and detain any person he suspects of aiding al-Qaeda or “associated forces.” Anyone imprisoned under these provisions will be denied their rights under the Fifth and Sixth Amendments, including the right to due process and the right to assistance of counsel.

With regard to the latter, in 2011, Senator Lindsey Graham (R-S.C.) infamously told anyone who may be detained indefinitely, [“Shut up! You don’t get a lawyer!”](#)

If states are to perform their obligation to stand as bulwarks of liberty, lawmakers must stand and



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refuse to allow Senator Graham, President Obama, or any other agent of the federal government to deprive citizens of those rights given to them by God and protected by the Constitution.

The most potent weapon in the state arsenal against federal tyranny is [nullification](#). Nullification occurs when a state holds as null, void, and of no legal effect any act of the federal government that exceeds the boundaries of its power as drawn in the Constitution.

Nullification is a concept of constitutional law recognizing the right of each state to nullify, or invalidate, any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the U.S. Constitution.

States retain the right to act as arbiters of constitutionality of federal acts because they 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.

As Congress continues to surrender to the president all legislative, executive, and judicial power, the need for nullification is urgent, and liberty-minded citizens are encouraged to see state legislators boldly asserting their right to restrain the federal government through application of that very powerful and very constitutional principle.

State legislators in Michigan and other states courageously opposing the tyranny of the NDAA and indefinite detention stand on very sound constitutional ground in their battle against federal overreaching. Any act of the federal government is *prima facie* void and must not be given the respect or force of law. In fact, such measures are not law at all.

As Alexander Hamilton explained in [The Federalist, No. 33](#):

If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted [sic] to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed.... But it will not follow from this doctrine that acts of the larger society which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. (Emphasis in original.)

As of March 6, [Senate Bill 94 sits in the Michigan House of Representatives Committee on Oversight](#) awaiting a hearing. Should the committee vote to approve the bill, it would go before the entire chamber for a vote.

Citizens of Michigan are encouraged to contact their state representatives and encourage them to vote in favor of Senate Bill 94 and in favor of denying the federal government the illegitimate power to deprive Americans of their constitutionally protected rights of due process, habeas corpus, and assistance of counsel.

Photo of Michigan Senate Chamber in the Michigan State Capitol in Lansing, Michigan

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