
Written Testimony of Daniel Miller

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Submitted to the House Select Committee on Governmental Oversight

Interim Charge: Texas-New Mexico Boundary, hearing of September 30, 2026

Submitted September 29, 2026

Chair Vasut, Vice Chair Walle, and Members of the Committee:

The Texas Nationalist Movement submits this written testimony on the Texas-New Mexico boundary charge, and I submit it as the organization's President. Our white paper, "The Line Moves by Consent," accompanies this testimony and is posted at <https://thetnm.org/downloads/new-mexico-boundary-white-paper.pdf>. No organization in Texas has engaged the fundamental questions of self-determination more deeply than ours, and this charge raises them.

SUMMARY

1. What was proposed for Lea, Eddy, and Roosevelt counties is secession. Texas independence is a different act.
2. A county cannot move itself. Texas should state its terms in advance: a majority vote of the residents of each county, New Mexico's consent under its own constitution, a compact, and approval by the Legislature and the voters of Texas.
3. The Committee's finding on the federal step should be narrow and accurate, and it should reach only agreements between states.
4. By taking up this charge, the House has made self-determination part of its own deliberation. The people of Texas are owed at least the same regard, and next session the Legislature should send them the question of Texas's continued membership in the federal union.

WHAT WAS PROPOSED FOR THE COUNTIES IS SECESSION

HJR 10, the New Mexico proposal, would have had New Mexico declare that it "consents to the secession of three or more contiguous counties." Its sponsors chose the right word. Secession is a political subdivision breaking away from the state that created it. Lea County is a creature of New Mexico in the same way Loving County is a creature of Texas. Our constitution calls the counties "legal subdivisions of the State," and New Mexico's courts say the same of theirs. A county holds no territory of its own, so when it leaves, it carries off ground that lies inside the boundaries of its state. If a Texas county tried to leave Texas, that would be secession too, and the Texas Constitution would answer it the way New Mexico's answers Lea County.

TEXAS IS A DIFFERENT CASE

Texas is a state. It governed itself as a republic for nearly a decade, and on October 13, 1845, the people of Texas voted themselves into this union by 7,664 to 430. Withdrawing a membership carves nothing off anybody. The ground of Texas is Texas's, inside the boundaries Texas accepted in 1850, and we claim nothing beyond them. If a state can join, a state can leave.

Josette Baer, then at the University of Zurich, wrote in 2000 that when a member state leaves a supranational union such as the European Union, we should "speak of cancellation of membership rather than of secession." She wrote about Europe, but the principle carries, because Texas, like a European

member, joined by its own consent to terms it was free to accept or refuse. Europe wrote the same principle into its treaty, and when the United Kingdom left the European Union, it was a member leaving a union of members.

THE REMEDIAL RIGHT AND THE PRIMARY RIGHT

Scholars sort these claims into two kinds, and the Committee's record should include both. A remedial right exists only as a cure for grave injustice, a last resort when a government denies a people any meaningful say in its own affairs. A primary right belongs to a people because the decision is theirs, and it does not wait on proof of injury. Thinking on self-determination has developed for more than 200 years, and most of that development has come since 1945.

The counties hold no primary right of their own, and on any theory they cannot join another state on their own say. Their residents are part of the people of New Mexico and are represented in Santa Fe. The closest precedent is the Aaland Islands. Those islanders asked to leave Finland and join Sweden. In 1921 the Council of the League of Nations left the islands with Finland, under guarantees of self-government. Its rapporteurs called separation a last resort, for a state that lacks the will or the power to protect a minority. The counties' path therefore runs through New Mexico's consent, which is how HJR 10 was written in the first place.

Texas is not seceding, so it does not need either theory. Put in the scholars' terms, though, the people of Texas hold the primary right. Our constitution says all political power is inherent in the people, and that they have "at all times the inalienable right to alter, reform or abolish their government." Scotland voted in 2014, and Quebec voted in 1980 and again in 1995. In each case the people answered the question at the ballot box, and no one had to prove oppression before the vote was held. When the United Kingdom voted in 2016 to leave the European Union, it was a member leaving a union it had joined. Texans have grievances, and those grievances are reasons a people might choose to use the right. They are not its source.

The counties need more consents than Texas does, and size has nothing to do with it. They need the consent of the state they would leave. The question of our own status belongs to the people of Texas, and it is theirs to answer.

THE PATH FOR THE COUNTIES

The process starts in Santa Fe. New Mexico wrote its boundary into Article I of its constitution. Changing it takes a vote of a majority of all members elected to each house of the New Mexico Legislature at a regular session, possibly more, and then approval by New Mexico voters in a statewide election. Only then does the question reach Austin, where Texas can accept territory by statute. Three new counties would need transition laws that run into our constitution's ban on local and special laws, so the prudent course is a constitutional amendment, which means Texans would vote on it too.

None of it moves without the people who live there, and no one has put the question to them. We found no vote, no poll, and no resolution from any county commission in Lea, Eddy, or Roosevelt asking to join Texas. In April, the chair of the Roosevelt County Commission said the commissioners had not discussed it and had no plans to put it on an agenda.

New Mexico has a great deal at stake. In 2023, Lea and Eddy counties held about 94 percent of New Mexico's taxable oil and gas property. By our estimate from the Legislative Finance Committee's figures, production there accounts directly for about a fifth of New Mexico's recurring general fund. The Governor's office has answered that New Mexico intends to stay "fully intact." On the Texas side, the state would take on about 30,000 students, federal installations whose statutes name New Mexico, and a Pecos River Compact that would have to be rewritten. New Mexico's trust lands would stay New Mexico's property, inside Texas.

TEXAS SHOULD STATE ITS TERMS IN ADVANCE

The Texas Nationalist Movement seeks no territory for Texas, and we take no position on whether Lea, Eddy, or Roosevelt County should become part of Texas. That decision belongs first to the people who live there. We do take a firm position on who decides. The Texas Constitution does not let the Legislature move part of one Texas county into another until the voters of both counties approve, and Texas should not move a state line on less. We recommend that the Legislature state its terms in advance, by concurrent resolution: a majority vote of the residents of each county, New Mexico's consent under its own constitution, a compact that settles what moves with the ground and what does not, and approval by the Legislature and by the voters of Texas. A model resolution appears in Section 17 of our white paper.

THE FEDERAL QUESTION

I ask the Committee to keep its finding on the federal step narrow and accurate. Article IV, Section 3 governs the forming of new states, and nothing here forms one. The power to settle boundaries belongs to the states. In 1837 the Supreme Court called it "a part of the general right of sovereignty," subject to one limitation, the consent of Congress. The Court has never held that Congress must consent before two states move territory between themselves, and it has never struck down a boundary agreement for lack of consent. It reads the Compact Clause to reach only agreements that could increase state power against the federal government. Even so, states have sought Congress's consent in every transfer we found, and Texas wrote it into its Red River compact with Oklahoma. Texas can use that step, because a consented compact settles titles, water rights, and debts in one enforceable text. Whatever the Committee concludes, the Compact Clause governs agreements between states. It says nothing about what the people of a state decide about their own government. I ask that the Committee's report say so.

PARITY FOR THE PEOPLE OF TEXAS

By taking up whether residents of three counties in another state may choose the government that answers to them, the House has made self-determination a subject of its own deliberation. That is the right principle, and it does not stop at the state line. If it is good enough for 156,000 New Mexicans, whose claim rests at most on a remedial right and on their own state's consent, it is good enough for the people of Texas, who hold the primary right. Parity is the least that consistency requires.

Some will point to *Texas v. White*, where the Supreme Court described "an indestructible Union, composed of indestructible States." Read the way its defenders read it, New Mexico could no more give up three counties than the union could give up Texas. Yet this Committee is holding a hearing on exactly that. If *Texas v. White* doesn't settle New Mexico's borders, it doesn't settle Texas's future either.

Texans chose their membership in this union by vote in 1845, and whether that membership continues is their question to answer. Texas has no statewide citizen initiative, so a statewide question reaches the ballot only through the Legislature. The right to decide was never Washington's to give. It belongs to the people of Texas. Next session, the Legislature should send them the question.

Thank you for considering this testimony. I would be glad to answer any questions from the Committee or its staff.

Respectfully submitted,

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