



TEXAS NATIONALIST MOVEMENT

# The Line Moves by Consent

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*The constitutional, statutory, fiscal, and economic questions in adding New Mexico counties to Texas, and why county secession is not Texas independence*

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## SUMMARY

# Executive summary

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*A county can't move itself. Lea, Eddy, or Roosevelt County could become part of Texas only if the people who live there choose it, New Mexico consents, and Texas accepts. What was proposed for them is secession, a part leaving the state it belongs to. Texas independence is a different act, and the principle this hearing invokes belongs to the people of Texas with more force, not less.*

The Speaker's charge asks this Committee to study "the constitutional, statutory, fiscal, and economic implications of adding to Texas one or more contiguous counties of New Mexico" and to outline "all procedural steps required at both the state and federal level." The idea of counties leaving New Mexico did not start in Austin. On January 29, 2026, two New Mexico representatives, Randall Pettigrew of Lovington and Jimmy Mason of Artesia, filed a proposed amendment to the New Mexico Constitution under which New Mexico would declare that it "consents to the secession of three or more contiguous counties." It died in its first committee. We found no resolution from any county commission in Lea, Eddy, or Roosevelt County asking to join Texas, and no poll of the people who live there. ([Texas House interim charges, March 2026](#))

The law answers the first question, whether a county can leave, quickly. A county is a legal subdivision of its state. It has no capacity to leave, and only New Mexico can cede the ground. New Mexico wrote its boundary into Article I of its constitution, so changing it takes a vote of the whole state, not only the three counties. Texas can accept territory by statute, but the transition laws that three new counties would need run into the Texas Constitution's ban on local and special laws. The prudent Texas route is a constitutional amendment, which puts the final decision before Texas voters. ([Tex. Const. art. XI, Sec. 1](#))

What was proposed for those counties is secession, and HJR 10's own text used the word. Secession is a part of a state leaving the whole, taking ground that lies within the whole state's boundaries, and it would be the same for any Texas county. Texas independence is a different act. Texas is a state, its people voted it into the union on October 13, 1845, and withdrawing from a union carves nothing off anyone. Two centuries of thinking about self-determination, most of it since 1945, supply the vocabulary for the difference. A county holds no primary right of its own and could claim at most a remedial right to cure grave injustice. The people of Texas hold the primary right: the right to decide their own status without first proving they have been wronged. ([Reference re Secession of Quebec, 1998](#))

The federal question is narrower than the public debate has made it. Article IV, Section 3 of the United States Constitution governs the formation of new states, and nothing proposed here forms one. The power to set boundaries belongs to the states. In 1837 the Supreme Court called the power to fix disputed boundaries "a part of the general right of sovereignty." The Compact Clause conditions agreements between states on the consent of Congress, but the Supreme Court has long refused to read it literally. It now requires consent only for agreements that could increase state power at the expense of federal supremacy, and it has never held that a transfer of territory between two states requires Congress's consent. States have sought that consent anyway, in every transfer we found, and Texas wrote it into its own Red River compact with Oklahoma. Federal statutes written around this line would need Congress to amend them in any case. ([Poole v. Fleeger, 1837](#))

The money shows what New Mexico would be giving up. Lea and Eddy counties hold about 94 percent of New Mexico's taxable oil and gas property. On our estimate they generate about one-fifth of New Mexico's recurring general fund directly, close to three-tenths once gross receipts are counted, and billions more each year for its trust funds, its Severance Tax Permanent Fund, and severance-tax bonding for capital projects. At Texas rates, the same production would pay Texas about \$2.8 billion a year in production taxes. Texas would also take on 156,000 residents, 30,000 public school students, federal installations whose statutes name New Mexico, and a river compact that would have to be renegotiated. ([NM Legislative Finance Committee, August 2026](#))

No organization in Texas has engaged the fundamental questions of self-determination more deeply than the Texas Nationalist Movement, and those are the questions this charge raises. TNM seeks no territory for Texas, and it takes no position on whether any New Mexico county should become part of Texas. That decision belongs first to the people who live there. We ask the Committee to report the order of consent the law already requires, and to recommend that Texas state its terms in advance:

- a majority vote of the residents of each county
- New Mexico's consent under its own constitution
- a compact that settles everything that moves with the ground, and everything that does not
- approval by the Texas Legislature and by the voters of Texas

A model concurrent resolution stating those terms appears in Section 17.

Texas already applies this rule to its own counties. The Texas Constitution will not let the Legislature move part of one Texas county into another until the voters of both counties approve. Texas should not move a state line on less. ([Tex. Const. art. IX, Sec. 1](#))

By taking up whether residents of three New Mexico counties may choose the government that answers to them, the Texas House has made self-determination a subject of its own deliberation. That principle does not stop at the state line. The people of Texas hold the stronger claim to it, and parity asks the Legislature to give them the same regard on the question of Texas's continued membership in the federal union, by sending that question to the voters (Section 10).

## OVERVIEW

# Key findings

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- 01 No county commission has voted to ask.** The proposal came from two New Mexico legislators, was filed in January 2026, and died in its first committee. We found no resolution by the Lea, Eddy, or Roosevelt county commission seeking to join Texas, and no poll of residents. Roosevelt County's commissioners said in April that the idea had not been discussed. Residents quoted in the press have spoken on both sides.
- 02 A county cannot leave its state.** Texas, New Mexico, and the Supreme Court all treat counties as subdivisions of their state. Only New Mexico can cede the territory, and New Mexico's boundary sits in its constitution, so New Mexico voters statewide would decide. The same rule binds every Texas county.
- 03 What was proposed for the counties is secession. Texas independence is not.** HJR 10 used the word, and it fits: a part leaving the state it belongs to. Texas is a state that entered the union by its own people's vote in 1845, and withdrawing a membership carves nothing off anyone.
- 04 The counties hold no primary right of their own. The people of Texas do.** A remedial right exists only to cure grave injustice, and the counties' residents are represented in Santa Fe. The primary right, a people's right to decide its own status without first proving injury, belongs to the people of Texas under Article I, Section 2. For eighty years, practice has moved toward it: Scotland, Quebec, and the United Kingdom each voted without first proving oppression.
- 05 Texas can accept territory by statute, but the prudent path runs through Texas voters.** Transition laws for three named counties collide with the ban on local and special laws in Article III, Sections 56 and 57. A constitutional amendment avoids the collision and gives Texans the final word.
- 06 Article IV, Section 3 does not govern this transfer.** It speaks to forming new states. Nothing proposed here forms one.
- 07 The boundary power belongs to the states, and no court has held that Congress must consent to a transfer between them.** The Supreme Court now reads the Compact Clause to require consent only for agreements that could increase state power at the expense of federal supremacy. Its statements on boundary changes, all dicta, point toward consent, and every transfer by agreement that we found carried it. Whatever the answer, the clause governs agreements between states. It does not reach a state's decision about its own status.

- 08 Federal statutes are written around the present line.** Until Congress amends them, the counties would sit in no Texas federal court division, the WIPP Land Withdrawal Act would still name New Mexico, and the Pecos River Compact would measure deliveries at a state line that had moved. Moving Eddy County would put Avalon Dam and Brantley Reservoir in Texas and require a renegotiated compact.
- 09 Lea and Eddy counties pay for a large share of New Mexico's government.** They hold about 94 percent of the state's taxable oil and gas property and, on our estimate, generate one-fifth to three-tenths of its recurring general fund. New Mexico has said it intends to stay whole.
- 10 Sovereignty would move. Title would not.** New Mexico's trust lands in the counties would remain New Mexico property inside Texas, with royalties flowing to New Mexico beneficiaries. Federal land would remain federal. The Permanent School Fund would gain nothing automatically.
- 11 The residents would give up legislative weight.** In population terms they would go from about five of New Mexico's 70 House seats to three-quarters of one of Texas's 150. They would pay no state income tax, and they would live under Texas rules for Medicaid, school finance, and groundwater.
- 12 Parity is owed to the people of Texas.** By holding this hearing, the House has made self-determination a subject of its own deliberation. If the counties' weaker claim earns that, the people of Texas, who hold the stronger one, are owed at least the same regard: the chance to answer the question of Texas's continued membership in the union at the ballot.

**SECTION 1**

# The charge and the facts on the ground

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## 1.1 The charge

**THE CHARGE**

"Texas-New Mexico Boundary: Study the constitutional, statutory, fiscal, and economic implications of adding to Texas one or more contiguous counties of New Mexico. Provide a detailed analysis of pertinent provisions of the United States Constitution, the Texas Constitution, the New Mexico Constitution, relevant federal and state statutes, and applicable judicial precedent. Identify and outline all procedural steps required at both the state and federal level necessary to admit territory currently part of New Mexico into Texas. Recommend drafts of any requisite legislation or resolutions to initiate the process."

Interim Committee Charges, Texas House of Representatives, 89th Legislature, March 2026, Select Committee on Governmental Oversight, Charge 2.

The posted hearing notice repeats the charge but omits its final sentence. Section 17 answers that sentence with a model resolution.

The charge names no county. Press accounts in both states have centered on Lea, Eddy, and Roosevelt counties, three of the New Mexico counties that border Texas, and they serve as the working case here. The legal steps apply to any contiguous county.

## 1.2 How the question reached Austin

New Mexico House Joint Resolution 10 was introduced on January 29, 2026, by Representatives Randall T. Pettigrew and Jimmy G. Mason. It proposed a new section of Article I of the New Mexico Constitution under which New Mexico would consent to three or more contiguous counties leaving the state, either to form a new state or to join any adjoining state. It was referred to the House Government, Elections and Indian Affairs Committee, where action was postponed indefinitely. The Legislature's own record lists it as dead. A 2021 predecessor, Senate Joint Resolution 15, never left the Senate Rules Committee.

HJR 10 would have required all of the following:

- a petition signed by at least 15 percent of the qualified electors in each county
- a special election in each county carrying at least two-thirds of the votes cast
- a unanimous resolution of each county commission
- payment of any debt the county owed the state
- an act of Congress, signed by the President, consenting to the change

Speaker Dustin Burrows released the House interim charges on March 26, 2026, and created this Committee the same day. New Mexico's response was immediate. The Governor's office said the state intends to stay whole. The Speaker of the New Mexico House and a spokesman for the Senate majority dismissed the idea. Representative Pettigrew told the Albuquerque Journal that his aim was to fix New Mexico, not to move to Texas. ([Santa Fe New Mexican, March 26, 2026](#), [Albuquerque Journal, March 27, 2026](#))

### 1.3 What the counties have said

Very little, and that is the most important fact in the record. We found no resolution by the Lea, Eddy, or Roosevelt county commission asking to join Texas. Representative Carl Tepper, a member of this Committee, told KLBK in March that Lea and Roosevelt counties had expressed interest, and residents quoted in the press have spoken on both sides. In April, Roosevelt County Commission Chair Tina Dixon said the idea had not been discussed and was not planned for an agenda, and a fellow commissioner said he had heard no interest from constituents. Representative Pettigrew told KOB 4 that HJR 10 was filed without any conversation with county or municipal leaders. We found no poll of residents on the question. ([Eastern New Mexico News, April 8, 2026](#), [KOB 4, 2026](#))

As far as the record shows, the people whose county line is under discussion have not been asked. No lawful route moves without them.

#### EXHIBIT 1 THE THREE COUNTIES AT A GLANCE

|                                | LEA             | EDDY             | ROOSEVELT        | THREE COUNTIES  |
|--------------------------------|-----------------|------------------|------------------|-----------------|
| County seat                    | Lovington       | Carlsbad         | Portales         |                 |
| Largest city (2025)            | Hobbs, 40,863   | Carlsbad, 32,524 | Portales, 11,734 |                 |
| Population, July 1, 2025       | 74,749          | 62,509           | 18,615           | 155,873         |
| Share of New Mexico population | 3.5%            | 2.9%             | 0.9%             | 7.3%            |
| Land area (square miles)       | 4,391.6         | 4,176.3          | 2,446.1          | 11,014          |
| Gross domestic product, 2024   | \$12.86 billion | \$11.32 billion  | \$0.95 billion   | \$25.13 billion |

|                                          |          |          |               |                      |
|------------------------------------------|----------|----------|---------------|----------------------|
| Median household income, 2024            | \$73,147 | \$75,342 | \$53,508      | New Mexico: \$67,838 |
| Poverty rate, 2024                       | 15.7%    | 15.1%    | 20.1%         | New Mexico: 15.8%    |
| Oil, gas, and mining share of jobs, 2025 | 22.8%    | 22.7%    | Not disclosed |                      |
| Public school students, 2024-25          | 15,161   | 11,924   | 3,109         | 30,194               |

Sources: Census Bureau Vintage 2025 population estimates, 2024 Gazetteer, and SAIPE 2024. Bureau of Economic Analysis county GDP, released February 5, 2026. BLS Quarterly Census of Employment and Wages, 2025. NCES Common Core of Data, 2024-25. Shares are our arithmetic.

SECTION 2

# What a county is

## 2.1 A creature of its state

Most people carry an older idea of a county, a place with standing of its own. The law does not. The Texas Constitution recognizes the counties as "legal subdivisions of the State." The Texas Supreme Court described them in 1920 as political subdivisions "created by the sovereign will without any special regard to the will of those who reside within their limits." New Mexico's Supreme Court says the same: "A county is but a political subdivision of the State, and it possesses only such powers as are expressly granted to it by the Legislature, together with those necessarily implied to implement those express powers." The United States Supreme Court has held that political subdivisions "never were and never have been considered as sovereign entities." ([Tex. Const. art. XI, Sec. 1](#), [Reynolds v. Sims](#), [1964](#))

The chain of creation runs one way. The people formed the state. The state formed the counties. A county has no legal capacity to take its ground anywhere, because the ground is not the county's to take. Only New Mexico can cede territory that is part of New Mexico, and HJR 10 was built on exactly that premise: it was an amendment by which New Mexico itself would consent.

## 2.2 Where political power sits

Both constitutions place political power in the people of the state as a whole. Article I, Section 2 of the Texas Constitution:

**TEXAS CONSTITUTION, ARTICLE I, SECTION 2**

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

New Mexico's Article II, Section 2 reads: "All political power is vested in and derived from the people: all government of right originates with the people, is founded upon their will and is instituted solely for their good." The residents of Lea County share in that power as New Mexicans. Their lawful voice on this question runs through New Mexico's own processes: their legislators, their state's amendment procedure, and any election New Mexico law provides.

Texas has also written its own practice on county lines into its constitution. Article IX, Section 1(2) provides that "No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the voters of both counties, and shall have received a majority of those voting on the question in each." The state holds the legal power over its subdivisions, and Texas has chosen to ask the people anyway. That choice is the right model for a state line.

**SECTION 3**

# County secession and Texas independence

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The charge concerns counties, but the question behind it is often asked about Texas, and the answers are different. The difference belongs in the Committee's record.

## 3.1 What was proposed for the counties is secession

New Mexico's own legislators chose the word. HJR 10's title and text both used it, and its operative clause would have had New Mexico declare that it "consents to the secession of three or more contiguous counties." They chose accurately. Secession is a part of a state separating from the whole. A county is a legal subdivision of its state (Section 2). It holds no territory of its own, and the ground it would take lies within boundaries fixed by the constitution of the whole state. That is why the lawful route for a county runs through the consent of the state it would leave, and why HJR 10 was written as New Mexico's own consent.

The rule is the same on this side of the line. No Texas county may leave Texas on its own. If any Texas county tried, that would be secession too, and the Texas Constitution would answer it the way New Mexico's answers Lea County. The counties are "legal subdivisions of the State," and the Legislature may not move even part of one county into another without a vote of both.

None of this diminishes the residents of southeast New Mexico. Their frustration with Santa Fe is real. What they seek, though, is to be governed from a different capital, and the law places that choice with the state they would leave.

## 3.2 What Texas independence is

Texas is a state. It governed itself as a republic from 1836 to 1845, and it entered the union by the act of its own people. A convention accepted annexation on July 4, 1845, by a vote of 55 to 1, and Texas voters ratified it on October 13, 1845, by 7,664 to 430. Madison described the founding states' ratification of the Constitution in the same terms: "Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act." ([Texas State Library and Archives Commission, 1845 vote totals](#), [The Federalist No. 39](#))

Texas independence would carve nothing off anyone. The ground of Texas is Texas's, within the boundaries Texas accepted in 1850 (Section 4), and the Texas Nationalist Movement claims nothing beyond them. What Texas would end is a membership, and the people who chose it would be the

people who decide whether it continues. TNM's President has put the principle in one line: "If a state can join, a state can leave."

New York and Rhode Island wrote the principle into their ratifications. New York's convention declared "That the Powers of Government may be reassumed by the People, whensoever it shall become necessary to their Happiness," and Rhode Island's adopted the same words in 1790. The Texas Constitution states it for Texans. Texas is "a free and independent State, subject only to the Constitution of the United States," and its people "have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

The distinction has a name in the scholarship. Josette Baer of the University of Zurich, writing in 2000 about a member that leaves a supranational union it entered by consent, proposed calling such a departure a "cancellation of membership rather than of secession." Europe has since written the principle into law. The Treaty on European Union provides, "Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements," and when the United Kingdom used that clause after its 2016 vote, it was a member leaving a union of members. Courts and scholars sometimes still use one word, secession, for both kinds of departure, as Canada's Supreme Court did in 1998. The acts differ in the ways that matter: who holds the right, whose consent is required, and whose territory is at stake.

### 3.3 How the understanding has moved

The law and theory of self-determination have been moving for two centuries, and most of the movement has come in the last eighty years. In 1920 a League of Nations commission of jurists found that self-determination was not yet a positive rule of international law. By 1945 it stood among the purposes of the United Nations. By 1966 it opened the International Covenant on Civil and Political Rights, which the United States ratified in 1992, though without making it enforceable in its courts. Since then, peoples have voted on their status as whole units, a supreme court has described what a clear vote obliges, and a union of states has written a withdrawal clause into its founding treaty.

#### EXHIBIT 2 HOW THE LAW AND THEORY OF SELF-DETERMINATION HAVE MOVED

| YEAR         | DEVELOPMENT                                                                                                                                                      | SOURCE                                                                      |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1788 to 1790 | New York and Rhode Island ratify the Constitution declaring that the powers of government "may be reassumed by the People"                                       | Ratification instruments of New York (1788) and Rhode Island (1790)         |
| 1920 to 1921 | League of Nations commissions on the Aaland Islands find self-determination is not yet a positive rule of law and treat a minority's separation as a last resort | League of Nations Official Journal (1920). Council Doc. B7 21/68/106 (1921) |
| 1945         | Self-determination of peoples enters the purposes of the United Nations                                                                                          | UN Charter, art. 1(2)                                                       |

|              |                                                                                                                                                                    |                                                       |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| 1966         | "All peoples have the right of self-determination" opens the covenant on civil and political rights, which the United States ratifies in 1992                      | ICCPR, art. 1(1)                                      |
| 1970         | The Friendly Relations Declaration ties protection of a state's territory to a government "representing the whole people," the textual root of the remedial theory | G.A. Res. 2625 (XXV)                                  |
| 1975         | The Helsinki Final Act, signed by the United States, affirms the right of all peoples to determine their internal and external political status                    | Helsinki Final Act, Principle VIII                    |
| 1997         | Political philosophy sorts claims to separate into remedial and primary rights                                                                                     | Buchanan (1997)                                       |
| 1993         | Czechoslovakia divides peacefully into two states by act of its federal assembly                                                                                   | Constitutional Act No. 542/1992                       |
| 1998         | Canada's Supreme Court holds that a clear vote to leave obliges all parties to negotiate                                                                           | Reference re Secession of Quebec, paras. 88 and 92-93 |
| 2000         | Scholarship names a state's departure from a supranational union a "cancellation of membership rather than of secession"                                           | Baer (2000)                                           |
| 2009         | The European Union writes an explicit withdrawal clause into its founding treaty                                                                                   | TEU art. 50, added by the Treaty of Lisbon            |
| 2010         | The International Court of Justice finds that general international law contains no applicable prohibition of declarations of independence                         | Kosovo Advisory Opinion, para. 84                     |
| 2014         | Scotland votes on independence under an agreement between the Scottish and United Kingdom governments                                                              | Edinburgh Agreement (2012)                            |
| 2016 to 2020 | The United Kingdom votes to leave the European Union and withdraws                                                                                                 | European Union Referendum Act 2015. TEU art. 50       |

Sources: as listed in Section 15.

### 3.4 The primary right and the remedial right

Scholars sort claims to separate into two families, and the sorting turns on one question: must a people prove it has been wronged before it may decide its political status? The political philosopher Allen Buchanan drew the line most clearly in 1997.

A remedial right exists only as a cure for grave injustice. On this view a group may separate only when the state that governs it has persistently violated its members' basic rights, has taken its territory unjustly, or refuses it meaningful self-government, and then only as a last resort. International law's

classic statement came in 1921, after the Swedish-speaking residents of the Aaland Islands asked to leave Finland and join Sweden. A League of Nations commission called that kind of separation "an altogether exceptional solution, a last resort when the State lacks either the will or the power to enact and apply just and effective guarantees." The islands stayed in Finland, with guarantees of autonomy. The Supreme Court of Canada restated the limits in 1998. Outside former colonies and peoples under foreign domination, it said, a right to separate might arise at most "where a definable group is denied meaningful access to government to pursue their political, economic, social and cultural development," and it added that it "remains unclear" whether even that category is law.

A primary right does not wait on proof of injury. On this view a people may decide its political status because the decision is its own, whether the right is grounded in nationhood or in the consent of the people who live in a territory. The International Covenant on Civil and Political Rights opens with the principle: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Practice follows it. Scotland voted in 2014, under an agreement with the United Kingdom government. Quebec voted in 1980 and 1995, under its own law. The United Kingdom voted in 2016. None of them had to prove oppression first, and Canada's Supreme Court held that a clear vote to leave "would give rise to a reciprocal obligation on all parties to Confederation to negotiate constitutional changes to respond to that desire." ([Reference re Secession of Quebec, 1998](#))

Every one of those votes was held by a whole constituent unit, a country of the United Kingdom, a province, or a member state, deciding its relationship to a larger union. None was a part carving itself out of a part.

### 3.5 How the two cases sort

The counties first. A county has no political existence apart from the state it belongs to, so it holds no primary right of its own. Its residents share in the self-government of the whole people of New Mexico, electing members of its Legislature, its Governor, and every statewide officer. Most primary-right theorists limit the right to peoples, or to groups able to carry the functions of a state, so that it does not pass from state to county to town without end. And even a group that holds a primary right cannot join another state on its own say. Joining is a merger, and a merger takes the consent of both sides. A remedial claim would require showing that New Mexico denies the counties meaningful self-government. Frustration with Santa Fe, however real, does not reach that threshold, and the counties elect members of New Mexico's Legislature. The counties' lawful road therefore runs through New Mexico's consent, which is how HJR 10 was built and how Berkeley and Jefferson counties moved from Virginia in 1863 (Section 4).

Texas second. Texas would not be seceding, so it needs neither theory to leave a union it joined by vote. If the question is put in the scholars' terms anyway, the right the people of Texas hold is the primary one. It is inherent, it is held "at all times" under Article I, Section 2, and it does not wait on proof of injury. Texans have grievances, and they may explain why Texans would choose to use the

right. They are not its source. TNM rests the right first on the Texas Constitution and on the vote by which Texas entered the union. International practice shows only that a vote is how peoples settle the question.

The counties need more consents than Texas does, and size has nothing to do with it. A county must obtain the consent of the state it would leave. On the question of their own status, the people of Texas need the consent of no other government, and any negotiation after their decision would concern its terms, not their right to make it.

### EXHIBIT 3 COUNTY SECESSION AND TEXAS INDEPENDENCE, COMPARED

|                    | COUNTY SECESSION (THE NEW MEXICO PROPOSAL)                                                                                | TEXAS INDEPENDENCE                                                                                                                                      |
|--------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Who decides        | Residents of part of a state, and then the state they would leave                                                         | The people of Texas as a whole                                                                                                                          |
| What the unit is   | A political subdivision of its state                                                                                      | A state, which entered the union by its own people's vote in 1845                                                                                       |
| Territory          | Lies within the boundaries of the state it would leave                                                                    | Texas's own, within the boundaries Texas accepted in 1850                                                                                               |
| What would change  | Which state governs the county                                                                                            | Whether Texas remains a member of the union                                                                                                             |
| Right held         | No primary right of its own. At most a remedial claim                                                                     | The primary right of a people to decide its status                                                                                                      |
| Who must agree     | New Mexico, under its constitution, and Texas                                                                             | The people of Texas decide by vote. The terms are negotiated afterward                                                                                  |
| Nearest precedents | Berkeley and Jefferson counties (1863), with Virginia's consent. The Aaland Islands (1921), kept in Finland               | Votes held without proof of oppression: Scotland (2014), Quebec (1980 and 1995), the United Kingdom (2016). The EU treaty's withdrawal clause (art. 50) |
| Federal step       | Congress's consent, sought in every earlier transfer, and amendments to federal statutes that name New Mexico (Section 7) | No agreement between states is involved, so the Compact Clause does not reach it                                                                        |

Sources: Sections 2, 4, 5, and 7. HJR 10 (N.M. 2026). Tex. Const. art. I, Secs. 1-2. Reference re Secession of Quebec (1998). Aaland Islands reports (1920-1921).

### 3.6 What the Committee's findings should say

The Committee's findings on how a county could move, through New Mexico's consent, a compact, and the consent of Congress, describe the separation of a political subdivision and a transfer of territory between states. They should say so, so that no one later reads them as describing the people of a state deciding their own status. That question differs in kind. The principle behind the charge applies to it with more force, not less (Section 10).

## SECTION 4

# The line has moved before

### 4.1 How the Texas-New Mexico line was set

The ground where Lea, Eddy, and Roosevelt counties sit lay inside the territory Texas claimed before 1850. In the boundary act of September 9, 1850, Texas agreed to its present northern and western lines and ceded to the United States "all her claim to territory exterior to the limits and boundaries which she agrees to establish," in exchange for \$10 million in United States bonds. The Texas Legislature accepted the terms on November 25, 1850. Texas's claim to the ground under the three counties was settled once already, by agreement and for money, with Texas on the other side of the transaction.

#### EXHIBIT 4 HOW THE TEXAS-NEW MEXICO LINE WAS FIXED

| YEAR         | WHAT HAPPENED                                                                                                                  | INSTRUMENT                                                                                  |
|--------------|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Before 1850  | Texas claimed territory to the Rio Grande, including the ground of today's Lea, Eddy, and Roosevelt counties                   | Texas boundary claims                                                                       |
| 1850         | Texas agreed to its present northern and western lines and ceded its claim beyond them for \$10 million in United States bonds | Act of Sept. 9, 1850, ch. 49, 9 Stat. 446. Accepted by the Texas Legislature, Nov. 25, 1850 |
| 1859 to 1860 | John H. Clark ran the line for a joint United States and Texas commission authorized in 1858                                   | Act of June 5, 1858, 11 Stat. 310                                                           |
| 1891         | Congress and Texas confirmed the Clark line                                                                                    | Act of Mar. 3, 1891, 26 Stat. 948, 971. Texas joint resolution of Mar. 25, 1891             |

|      |                                                                                 |                                   |
|------|---------------------------------------------------------------------------------|-----------------------------------|
| 1927 | The Supreme Court held New Mexico to the line along the Rio Grande near El Paso | New Mexico v. Texas, 275 U.S. 279 |
|------|---------------------------------------------------------------------------------|-----------------------------------|

Sources: statutes as cited. New Mexico v. Texas, 275 U.S. 279, 291-302 (1927). Tex. Nat. Res. Code Sec. 11.015.

This line has been fixed by agreement, by statute, and by the Supreme Court. It has never moved because one side wished it. New Mexico's 1910 constitutional convention tried to draw the eastern line on the true 103rd meridian instead of the surveyed line, and Congress declared the attempt of no force.

Texas has also lost ground on a border, though not by cession. In *United States v. Texas* (1896), the Supreme Court held that Greer County had never belonged to Texas, and Congress organized it as part of Oklahoma Territory that May. In 2000 Texas and Oklahoma settled their Red River line by compact. Texas enacted that compact in 1999, and it provides that it is "not binding or obligatory on either party state unless and until it has been enacted by both states and consented to by the United States Congress." It is the closest Texas template for any future agreement. ([Tex. Nat. Res. Code ch. 12](#))

## 4.2 Territory moved between existing states

Territory has moved, and lines have been settled, between existing states by agreement a handful of times. Only one transfer approached county scale.

### EXHIBIT 5 BOUNDARY AGREEMENTS AND TRANSFERS BETWEEN EXISTING STATES

| TRANSFER                                                   | YEAR         | HOW IT WAS DONE                                                                                          | CONGRESS                                                                                                           |
|------------------------------------------------------------|--------------|----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Kentucky and Tennessee boundary                            | 1820         | Compact adjusting the line                                                                               | Express consent, 3 Stat. 609                                                                                       |
| Boston Corner, Massachusetts to New York                   | 1853 to 1855 | Massachusetts ceded, New York accepted, both acts conditioned on Congress                                | Express consent, 10 Stat. 602 (1855)                                                                               |
| Berkeley and Jefferson counties, Virginia to West Virginia | 1863         | Virginia consented on condition of a county vote, West Virginia's constitution accepted, voters approved | Implied in the 1862 admission act, express in 1866 (14 Stat. 350). Upheld, <i>Virginia v. West Virginia</i> (1871) |
| Iowa and Nebraska reciprocal cessions                      | 1943         | Compact exchanging river-bottom lands                                                                    | Express consent, 57 Stat. 494                                                                                      |
| Missouri and Nebraska boundary                             | 1999         | Compact relinquishing sovereignty on each side of a compromise line                                      | Express consent, 113 Stat. 1333                                                                                    |

Sources: statutes as cited. *Virginia v. West Virginia*, 78 U.S. 39 (1871).

One inhabited exchange, between Rhode Island and Massachusetts in 1862, was completed by Supreme Court decree under an 1859 act of Congress that authorized the Attorney General to consent to the line the states agreed on (11 Stat. 382).

Berkeley and Jefferson counties are the only inhabited, county-scale transfer between two existing states. Virginia's consent came from its wartime Restored Government, which withdrew it in 1865. The Supreme Court upheld the transfer in 1871 because Congress had consented, and it called the matter "the delicate question of permanent boundary between the States and jurisdiction over a large population." No precedent approaches three counties holding about 156,000 people and about 9 percent of the ceding state's land.

## SECTION 5

# The path through Santa Fe

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### 5.1 New Mexico's boundary is in its constitution

Article I of the New Mexico Constitution describes the state's boundaries by meridian and parallel, beginning where "the thirty-seventh parallel of north latitude intersects the one hundred and third meridian" and running "along said one hundred and third meridian to the thirty-second parallel of north latitude." Moving Lea, Eddy, or Roosevelt County into Texas means amending that article.

Under Article XIX, Section 1, an amendment must be proposed by "a majority of all members elected to each of the two houses voting separately" and ratified by "a majority of the electors voting on the amendment." That vote is statewide, not limited to the three counties. A county vote could express the residents' will, but the state's voters would decide whether New Mexico lets the county go.

One open question could raise that bar. Article XIX entrenches certain provisions on the elective franchise and on education, requiring a three-fourths vote of each house and three-fourths of the voters for any amendment that would "restrict the rights created by" them. Opponents could argue that removing residents from New Mexico restricts those rights as to them. We found no New Mexico authority on the point.

### 5.2 Trust lands and the Enabling Act

Congress granted New Mexico about 13.4 million acres to be held in trust, under the Ferguson Act of 1898 and the Enabling Act of 1910, and the State Land Office's most productive oil and gas tracts lie in Eddy and Lea counties. The 1910 Enabling Act requires that trust lands be "appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained," and voids any conveyance that does not conform. New Mexico's constitution adopts

those terms in an ordinance that "is irrevocable without the consent of the United States and the people of this state." The Supreme Court has enforced the trust strictly, holding that a state taking trust land for its own use "must actually compensate the trust in money for the full appraised value." ([Lassen v. Arizona, 1967](#))

Moving the boundary would not convey the trust lands. They would remain New Mexico's property inside Texas (Section 9.5). Any agreement that transferred them, or their minerals, would have to pay full appraised value or obtain an act of Congress changing the trust's terms.

Roosevelt County also holds a New Mexico constitutional institution. Article XII, Section 11 confirms Eastern New Mexico University at Portales as a state educational institution, and the university is a beneficiary of the land trust. Any compact would have to decide its future.

### 5.3 Where Santa Fe stands

New Mexico's elected leadership has answered the question already, and the fiscal stakes (Section 9) show what the state would be giving up. A transfer would require New Mexico's Legislature, then its voters, to give up the counties that fund a large share of the state. Without New Mexico, no county moves. With New Mexico, the remaining steps are ones earlier transfers have completed.

## SECTION 6

# The path through Austin

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### 6.1 Texas has accepted territory by statute before

No single Texas statute describes all of the state's boundaries. They rest on treaties, the 1850 act, federal statutes and resolutions, Supreme Court decrees, and compacts, collected in Chapter 11, Subchapter B of the Natural Resources Code. Texas has accepted territory by ordinary statute. Section 11.016 "accepts as part of its territory and assumes civil and criminal jurisdiction over" parcels the United States acquired from Mexico in 1933, and Section 11.017 accepts the Chamizal tract and makes it part of El Paso County. Those were small or unpopulated tracts attached to existing counties. ([Tex. Nat. Res. Code ch. 11](#))

### 6.2 Creating the counties

Article IX, Section 1 gives the Legislature "power to create counties for the convenience of the people." The 1876 constitution required new counties in territory outside existing counties to cover at least 900 square miles "in a square form." Voters repealed that text in 1999. The question is academic: each of the three counties exceeds 900 square miles, and the simplest course keeps their present lines, names, and county seats.

### 6.3 Why the prudent route is a constitutional amendment

The transition laws for three named counties would be local legislation, and Article III, Section 56 bars "any local or special law" on a long list of subjects, including:

- "regulating the affairs of counties, cities, towns, wards or school districts"
- "locating or changing county seats"
- "for the opening and conducting of elections"
- "creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts"
- "regulating the practice or jurisdiction of" courts
- "regulating the management of public schools"
- "exempting property from taxation"

Section 57 adds a notice requirement: notice of the intention to apply for a local or special law, stating its substance, must be published "in the locality where the matter or thing to be affected may be situated" at least 30 days before the bill is introduced. Before a transfer, that locality is in New Mexico.

Section 56 applies "except as otherwise provided in this Constitution," and Articles V and IX let the Legislature create courts and counties by name, so those pieces may need no amendment. Schools, elections, local offices, tax treatment, and the Section 57 notice requirement are another matter.

A constitutional amendment resolves those problems. It can authorize the compact, the acceptance of territory, and the transition laws notwithstanding Sections 56 and 57, and it can confirm land titles, water rights, and local bonded debt valid under New Mexico law. Under Article XVII, Section 1, a proposed amendment needs the votes of two-thirds of all members elected to each house before it goes to the voters. The legal path and the principle meet here: Texans would have the final word on their own state's borders.

### 6.4 What the transition must carry

- Courts of appeals districts are defined by county lists in Government Code Section 22.201. District and county courts are created county by county in Government Code chapters 24 and 25. Pending New Mexico cases, judgments, and prosecutions need a transfer or continuation rule. The Red River and Missouri-Nebraska compacts let pending land-title suits continue in the courts where they were filed, and a transfer of populated counties would need a broader rule.
- Twelve New Mexico school districts with about 30,000 students would need recognition as Texas districts under Education Code chapters 48 and 49 (Section 9.4).
- Texas would acquire sovereignty, not land. Private land stays private, federal land stays federal, and New Mexico trust land stays New Mexico's. The Permanent School Fund and the Permanent University Fund would gain nothing automatically.

- Land titles in the counties emanate from the United States and New Mexico, not from the Texas General Land Office. Natural Resources Code Section 11.015 already makes certified New Mexico county deed records admissible and recordable in Texas and is a model.
- New Mexico treats groundwater as public water appropriated by state permit. Texas law holds that "a landowner owns the groundwater below the surface of the landowner's land as real property." Moving the Ogallala-overlying parts of Lea and Roosevelt counties from one regime to the other raises vested-rights questions in both directions. The amendment and compact should carry existing New Mexico permits forward and decide whether to create groundwater conservation districts. ([Tex. Water Code Sec. 36.002](#), *Edwards Aquifer Authority v. Day*, 369 S.W.3d 814 (Tex. 2012))
- Texas law bars storage of high-level radioactive waste in the state outside the reactor sites where it originated. That statute would govern the Lea County site once proposed for Holtec's storage facility (Section 9.6).
- County, city, and school district debts, officers, ordinances, employees, and pensions need continuation rules through the transition.

#### EXHIBIT 6 THE TEXAS INSTRUMENTS

| INSTRUMENT                                            | WHAT IT DOES                                                                                                                                                                                                                                                                                                                                                       | VOTE REQUIRED                                                                    |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Joint resolution proposing a constitutional amendment | Authorizes the compact, acceptance of the territory, and transition laws notwithstanding Article III, Sections 56 and 57. Confirms titles, water rights, and local debts valid under New Mexico law                                                                                                                                                                | Two-thirds of all members elected to each house, then a majority of Texas voters |
| Compact bill                                          | Enacts the Texas-New Mexico agreement on the Red River Boundary Compact model: sovereignty, pending cases, records, taxes in the transition year, property and water rights, debts, employees and pensions, trust lands, Eastern New Mexico University, and the Pecos River Compact. Takes effect only when both states have enacted it and Congress has consented | Majority of each house, and the Governor's approval                              |
| Acceptance and organization bill                      | Accepts the territory, creates the counties with their present lines and seats, assigns courts, recognizes school districts, and continues local law until replaced                                                                                                                                                                                                | Majority of each house, and the Governor's approval                              |
| Concurrent resolution to Congress                     | Transmits the compact for congressional consent and requests conforming amendments to the federal statutes that name New Mexico                                                                                                                                                                                                                                    | Majority of each house, presented to the Governor under Article IV, Section 15   |

Sources: Tex. Const. art. III, Secs. 56-57, art. IX, Sec. 1, art. XVII, Sec. 1. Tex. Nat. Res. Code chs. 11 and 12.

**SECTION 7**

# The federal step

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## 7.1 Article IV speaks to new states

Article IV, Section 3, Clause 1 opens, "New States may be admitted by the Congress into this Union." It then forbids any new state to be "formed or erected within the Jurisdiction of any other State," and any state to be "formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress."

Every limitation in that clause concerns a state being "formed." Nothing proposed here forms one. The union would have the same states the day after a transfer as the day before. The Supreme Court decided the only county transfer it has reviewed under a different provision, the Compact Clause, and when Congress consented to the Texas-Oklahoma boundary compact in 2000 it cited the Compact Clause, not Article IV. Some will argue that an enlarged Texas is a state "formed by the Junction" of Texas and parts of New Mexico. We found no court that has adopted or rejected that reading.

## 7.2 The boundary power belongs to the states

The Supreme Court has described the power to fix boundaries as the states' own. In 1837 it held that it is "a part of the general right of sovereignty, belonging to independent nations, to establish and fix the disputed boundaries between their respective territories," and "a right equally belonging to the states of this Union," guarded in its exercise by "a single limitation or restriction, requiring the consent of congress." In 1838 it explained that the consent requirement exists "[n]ot to prevent the states from settling their own boundaries, so far as merely affected their relations to each other, but to guard against the derangement of their federal relations with the other states of the Union, and the federal government." ([Poole v. Fleegee, 1837](#), [Rhode Island v. Massachusetts, 1838](#))

The power is the states'. The limit on it is one the states themselves wrote.

## 7.3 The Compact Clause and what the Court has said about boundaries

The limit is in Article I, Section 10: "No State shall, without the Consent of Congress, ... enter into any Agreement or Compact with another State." The Supreme Court reads it by function, not by literal text. In *Virginia v. Tennessee* (1893) the Court held that the clause "is directed to the formation of any combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States." In 1978 it held that the historical practice of submitting compacts to Congress "is not controlling."

The 1893 opinion addressed boundaries directly, and anyone arguing that consent is required would cite it: "If the boundary established is so run as to cut off an important and valuable portion of a State, the political power of the State enlarged would be affected by the settlement of the boundary, and to an agreement for the running of such a boundary, or rather for its adoption afterwards, the consent of Congress may well be required." Those who read the clause broadly would say that three counties holding most of New Mexico's oil production, a federal repository, and a uranium enrichment plant fit that description. In 1976 the Court excused consent for a boundary settlement because the states were locating an old line, and the decree took effect "not as an alienation of territory." A transfer is an alienation of territory. ([Virginia v. Tennessee, 1893](#), [New Hampshire v. Maine, 1976](#))

The Court's statements about boundary changes are dicta, and the question is less settled than the practice suggests. The 1893 Court went on to find that Congress had consented by implication, so its warning about "an important and valuable portion of a State" decided nothing. In the only case on a transfer of counties, *Virginia v. West Virginia* (1871), the Court said it would "proceed upon the ground, which we shall not stop to defend," that consent was essential, and then found that Congress had given it. The Supreme Court has never held that a transfer of territory between two states requires the consent of Congress, and it has never struck down a boundary agreement for lack of it. Against that, the text reaches "any Agreement or Compact," Madison faulted Virginia and Maryland for settling their boundary waters without Congress, Justice Story listed questions of boundary among the compacts that need consent, and every transfer by agreement that we found carried it.

Consent need not be a separate vote. The Court has held that "[t]he Constitution does not state when the consent of Congress shall be given, whether it shall precede or may follow the compact made, or whether it shall be express or may be implied." In both *Virginia v. Tennessee* and *Virginia v. West Virginia*, the Court found consent implied from later acts of Congress. The conforming statutes Congress would have to pass anyway (Section 7.5) would themselves supply strong evidence of consent.

## 7.4 This line was fixed by federal act

More federal acts bear on the Texas-New Mexico line than on most state lines. It is a term of the 1850 agreement between Texas and the United States. Congress confirmed the Clark survey in 1891, and in February 1911 it declared the line conclusive and any provision of New Mexico's proposed constitution tending to change it "of no force or effect." Congress then made New Mexico's admission subject to that resolution, and the Supreme Court enforced it in 1927 to fix where the line runs. Those acts fix the line's location. Read as a permanent bar on the two states ever moving it by agreement, the 1911 condition would collide with the rule that admitted states stand on an equal footing (*Coyle v. Smith*, 1911). Texas's own 1850 agreement raises a question no court has decided: whether Texas may later accept ground that New Mexico cedes.

## 7.5 Federal statutes written around the present line

**EXHIBIT 7 FEDERAL STATUTES THAT NAME NEW MEXICO OR THE PRESENT LINE**

| STATUTE                                          | WHAT IT SAYS                                                                                                                         | WHAT A TRANSFER REQUIRES                                                                                                                       |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 28 U.S.C. Sec. 111 and Sec. 124                  | "New Mexico constitutes one judicial district." Section 124 assigns every Texas county to a named federal division                   | Until Congress amends Section 124, the counties would sit in no Texas federal division. Appeals would move from the Tenth Circuit to the Fifth |
| WIPP Land Withdrawal Act, Pub. L. 102-579        | Defines "the State" as "the State of New Mexico" and directs payments to the State and to local governments in Lea and Eddy counties | Amendment of the Act's state-specific provisions and payment terms                                                                             |
| Pecos River Compact, 63 Stat. 159 (1949)         | Measures New Mexico's delivery obligation "at the New Mexico-Texas state line"                                                       | A renegotiated compact, consented to by Congress, and a modified Supreme Court decree (Section 9.6)                                            |
| 30 U.S.C. Sec. 191(a)                            | Pays half of federal mineral receipts to the state "within the boundaries of which the leased lands or deposits are or were located" | Consent legislation should say which state receives payments on existing and future leases. "Are or were" invites a dispute                    |
| 16 U.S.C. Sec. 407                               | Establishes Carlsbad Caverns National Park, formerly a monument "in the State of New Mexico"                                         | Conforming amendment                                                                                                                           |
| 2 U.S.C. Sec. 2a(b) and the Fourteenth Amendment | House seats follow the decennial census. New Mexico has 3 and Texas 38 until the 2030 census takes effect                            | No change in seats or electoral votes before then. Both states would likely redraw congressional districts at mid-decade                       |
| 49 C.F.R. Sec. 71.7                              | Runs the Central-Mountain time line along the Texas-New Mexico boundary                                                              | A rulemaking decision on which time the counties keep                                                                                          |

Sources: statutes and regulation as cited. Texas v. New Mexico, 462 U.S. 554 (1983).

## 7.6 How the Committee should frame the federal step

The Texas Nationalist Movement holds that the states made the union and that the power to settle their boundaries is theirs by right. In TNM's view, a transfer that creates no new state, adds no senator, and takes no power from Congress has a serious argument for falling outside the Compact Clause as the Court now reads it. No state has tested that argument. Every earlier transfer by agreement that we found carried Congress's consent, given by express act, in advance, or by implication. New Mexico's own sponsors wrote an act of Congress into HJR 10, Texas wrote the same condition into its Red River compact in 1999, and federal statutes written around this line would need Congress to amend them whatever the answer.

Texas can use that step. "[C]ongressional consent transforms an interstate compact within this Clause into a law of the United States," so the land titles, water rights, debts, and tax terms a compact settles would rest on a single enforceable text instead of two states' competing readings. Any agreement that moved 156,000 people and billions of dollars in revenue should rest on that footing. ([Cuyler v. Adams, 1981](#))

We ask the Committee to report the federal question as it stands. No court has held that Congress must consent to a transfer of territory between states. The Court's statements and the states' practice point toward seeking it, and federal statutes naming New Mexico would need amendment in any case. Whatever the Committee concludes, its report should state that the finding reaches agreements between states and nothing else. It does not speak to what a state may decide within its own borders, among its own people.

## SECTION 8

# The full sequence

The charge asks for "all procedural steps required at both the state and federal level." Taken in order:

### EXHIBIT 8 THE PROCEDURAL STEPS, IN ORDER

| STEP | WHO ACTS                                  | INSTRUMENT                                                                                                                                                      | THRESHOLD                                                                           |
|------|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 1    | Texas Legislature (optional, at any time) | Concurrent resolution stating the terms on which Texas would consider a transfer (Section 17)                                                                   | Majority of each house, presented to the Governor                                   |
| 2    | New Mexico Legislature                    | Joint resolution proposing an amendment to Article I, providing for a county vote and New Mexico's consent                                                      | Majority of all members elected to each house. Possibly three-fourths (Section 5.1) |
| 3    | New Mexico voters, statewide              | Ratification of the amendment                                                                                                                                   | Majority of those voting. Possibly three-fourths                                    |
| 4    | Voters of each county                     | Election on leaving New Mexico for Texas                                                                                                                        | Set by New Mexico law. Texas should require a majority in each county               |
| 5    | Texas and New Mexico                      | Negotiated compact covering sovereignty, property, trust lands, water, debts, records, pending cases, taxes, employees, WIPP, and Eastern New Mexico University | Agreement of both states                                                            |

|    |                                     | amendment                                                                                                    | Two-thirds of all members elected to each house     |
|----|-------------------------------------|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| 7  | Texas voters                        | Ratification of the amendment                                                                                | Majority of those voting                            |
| 8  | Texas Legislature and Governor      | Compact bill, and acceptance and organization bill                                                           | Majority of each house, and the Governor's approval |
| 9  | New Mexico Legislature and Governor | Compact bill                                                                                                 | Majority of each house, and the Governor's approval |
| 10 | Congress                            | Consent to the compact, as in every earlier transfer, and conforming amendments to the statutes in Exhibit 7 | Act of Congress                                     |
| 11 | United States Supreme Court         | Modification of the Pecos River decree in <i>Texas v. New Mexico</i> , No. 65, Original                      | Motion of the states                                |
| 12 | Both states                         | Transition of courts, schools, records, elections, and local government, and congressional redistricting     | By law, on the compact's effective date             |

Sources: N.M. Const. arts. I and XIX. Tex. Const. arts. III, IX, and XVII. Tex. Nat. Res. Code ch. 12. Pub. L. 106-288 (2000).

Steps 2 through 4 belong to New Mexico and its people. Texas cannot take them, and Texas should not try.

SECTION 9

# The fiscal and economic stakes

## 9.1 Oil and gas production

New Mexico was the second-largest crude oil producer among the states in 2025, at 2.2 million barrels a day, 16.1 percent of all United States output. The Energy Information Administration reports that Lea and Eddy counties alone accounted for nearly 1.0 million barrels a day, 52 percent, of United States production growth between 2020 and 2024. New Mexico's State Land Office ranks Lea and Eddy first and second among the Permian Basin's top 20 oil-producing counties. ([EIA state production data, August 31, 2026](#), [EIA, September 2, 2025](#), [NM State Land Office, October 17, 2024](#))

County production volumes from New Mexico's Oil Conservation Division were not available to us in usable form. The best public measure of the counties' share is the property tax base. In 2023, Lea and Eddy held \$38.35 billion of New Mexico's \$40.95 billion in taxable oil and gas property, about 94 percent. Oil and gas property made up 87.3 percent of Lea County's taxable value and 78.3 percent of Eddy County's. Roosevelt County, on the Llano Estacado, is an agricultural and university county with almost no oil and gas base. ([NM LFC, Property Taxes in New Mexico, May 2024](#))

## 9.2 What New Mexico would give up

New Mexico's Legislative Finance Committee reported that in fiscal 2023, direct oil and gas revenue made up 19 percent of recurring general fund revenue, and "close to 35 percent" including indirect revenue from gross receipts and income taxes. State oil and gas revenue across all funds reached \$11.49 billion that year. By fiscal 2026, recurring general fund revenue was \$14.0 billion, and direct oil and gas revenue to the general fund was \$2.92 billion, about 21 percent. ([NM LFC, June 11, 2024](#), [NM LFC, August 2026](#))

### EXHIBIT 9 NEW MEXICO REVENUE ATTRIBUTABLE TO LEA AND EDDY COUNTIES, FISCAL 2026 (ESTIMATE)

| REVENUE STREAM                                                                                                             | STATEWIDE            | ATTRIBUTABLE TO LEA AND EDDY | SHARE OF RECURRING GENERAL FUND |
|----------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------|---------------------------------|
| Direct oil and gas revenue to the general fund (school tax, conservation tax, processors tax, net federal mineral leasing) | \$2.92 billion       | About \$2.74 billion         | About 20%                       |
| Gross receipts tax, illustrative (Eddy and Lea are 30% of forecast taxable gross receipts)                                 | \$4.53 billion       | About \$1.36 billion         | About 10%                       |
| School tax and federal mineral receipts routed to reserves, trust funds, and the Severance Tax Permanent Fund              | \$2.23 billion       | About \$2.09 billion         | Outside the general fund        |
| Severance tax, to bonding and the Severance Tax Permanent Fund                                                             | About \$2.25 billion | About \$2.11 billion         | Outside the general fund        |
| Local oil and gas property tax obligations, 2023                                                                           | \$941.6 million      | \$876.0 million              | Local governments               |

Method: statewide figures from the LFC's August 2026 consensus revenue estimate and May 2024 property tax brief, except the severance tax figure, which is our calculation at 3.75 percent of fiscal 2026 taxable value. Attribution applies the counties' 93.6 percent share of taxable oil and gas property

to state oil and gas revenue lines, and 30 percent to gross receipts. Trust land royalties are excluded because they stay with the New Mexico trust. These are our estimates, not official figures, and they do not net out what New Mexico spends in the counties.

On this estimate, Lea and Eddy generate about one-fifth of New Mexico's recurring general fund directly and close to three-tenths with gross receipts, plus about \$4 billion a year more for New Mexico's trust funds, its Severance Tax Permanent Fund, and severance-tax bonding for capital projects. The two counties hold 6.5 percent of New Mexico's people. New Mexico's permanent funds are large, with more than \$40.9 billion in the Land Grant Permanent Fund and \$13.5 billion in the Severance Tax Permanent Fund as of June 2026, and nearly all of their new money comes from oil and gas, most of it produced in these two counties. Any state facing a loss of that size would weigh it heavily.

### 9.3 What Texas would take in

Texas taxes oil at 4.6 percent and gas at 7.5 percent of market value, and collected \$5.88 billion and \$2.43 billion from them in fiscal 2026. Applied to the Lea and Eddy share of New Mexico's fiscal 2026 taxable value, Texas rates would yield about \$2.8 billion a year. New Mexico's state production taxes on the same base run about \$4.0 billion, but its Legislative Finance Committee places New Mexico's effective rate "roughly the same as Texas" once local property taxes on minerals are counted. ([Texas Comptroller, September 11, 2026](#))

About two-thirds of New Mexico's oil comes from federal land, and New Mexico received \$3.07 billion in gross federal mineral leasing revenue in fiscal 2026. By statute, the state share goes to the state where the leased lands "are or were located." Most of that production lies in Lea and Eddy, so most of that stream would follow the boundary, subject to the dispute the words "or were" invite.

New Mexico's gross receipts tax reaches services, including oilfield services, at a state rate of 4.875 percent and combined rates of 6.5625 percent in Hobbs, 7.3958 percent in Carlsbad, and 8.55 percent in Portales for the first half of 2026. Texas's sales tax is 6.25 percent plus up to 2 percent local on a narrower base. We have not estimated the Texas sales tax yield.

### 9.4 What Texas would take on

The counties hold 30,194 public school students in 12 districts. Under Texas school finance, mineral property is appraised at market value, and districts whose local revenue exceeds their entitlement send the excess to the state under Chapter 49. In 2024-25 the Texas Education Agency estimated 369 such districts paying \$2.91 billion, and its 2025-26 list includes Permian districts such as Andrews, Crane, and Wink-Loving. Several oil-rich districts in Lea and Eddy counties would likely join them, while Portales and the smaller Roosevelt County districts would likely draw state aid. District-level estimates require appraisal modeling we have not done.

New Mexico expanded Medicaid. Texas has not. In mid-2025, New Mexico's Medicaid rolls counted 29,934 people in Lea County and 21,740 in Eddy County. Adults covered under the expansion would face Texas eligibility rules, where the monthly income limit for a parent in a family of three is \$230. Texas's federal matching rate for fiscal 2027 is 58.54 percent, against New Mexico's 71.47 percent, so Texas would pay a larger state share for those who remain eligible.

Courts, prisons, highways, and state agency offices in a region of 11,014 square miles would pass to Texas. We have not estimated those costs, and the Committee should ask the Legislative Budget Board to do so before any agreement is negotiated.

## 9.5 What stays where it is

Sovereignty moves with a boundary. Ownership does not. The Supreme Court has held that "[l]and acquired by one State in another State is held subject to the laws of the latter and to all the incidents of private ownership." New Mexico's trust lands in the counties would remain New Mexico property inside Texas, subject to Texas law and Railroad Commission regulation, with royalties still flowing to New Mexico's schools and to beneficiaries such as Eastern New Mexico University. Whether Texas production taxes would reach New Mexico's royalty share is a question the compact must settle. ([\*Georgia v. City of Chattanooga\*, 1924](#))

Federal land stays federal. Federal land covers 58.9 percent of Eddy County, 15.1 percent of Lea County, and 0.7 percent of Roosevelt County. A transfer would change neither federal ownership nor Congress's authority over that land. Only the state's residual jurisdiction would pass from New Mexico to Texas.

## 9.6 Federal installations and water

- The Waste Isolation Pilot Plant (WIPP), the federal deep geologic repository for defense transuranic waste, lies 26 miles southeast of Carlsbad. Its Land Withdrawal Act names New Mexico as "the State," and New Mexico's environment department regulates it under a hazardous waste permit.
- Urenco USA's enrichment plant near Eunice calls itself the only commercial uranium enrichment facility in the United States, with 4.3 million separative work units a year of capacity and an expansion planned. Its federal license would be unaffected. State air and water permits would pass to Texas agencies.
- Carlsbad Caverns National Park covers more than 46,000 acres. Its 394,000 visitors in 2023 spent \$29.1 million locally.
- The Nuclear Regulatory Commission licensed Holtec's proposed spent fuel storage facility in Lea County in 2023. After *NRC v. Texas* (2025), the Fifth Circuit dismissed the challenge to the license, and Holtec and its local partner canceled their land agreement in October 2025. Texas and New Mexico both prohibit such storage by statute. A transfer would trade one prohibition for the other.

- The Pecos River Compact, consented to by Congress in 1949, obliges New Mexico to deliver water "at the New Mexico-Texas state line," and the Supreme Court has retained jurisdiction over its 1988 decree in *Texas v. New Mexico*, with a River Master computing deliveries. Moving Eddy County moves that delivery point upstream to the Chaves County line and puts Avalon Dam, Brantley Reservoir, and the Carlsbad irrigation works in Texas. The compact's baseline, measuring points, and accounting would describe geography that no longer matched the parties. The practical path is a renegotiated compact, consent of Congress, and a motion to modify the decree.
- No compact apportions the High Plains aquifer between Texas and New Mexico. The change would be one of legal regime, from New Mexico's permit system to Texas's ownership rule (Section 6.4).

## 9.7 The residents' ledger

The people of the three counties would weigh the move differently from either capital, and it is their weighing that matters most.

### EXHIBIT 10 TAXES AND SERVICES FOR A RESIDENT, NEW MEXICO AND TEXAS

|                          | NEW MEXICO                                                                                                    | TEXAS                                                          |
|--------------------------|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| Personal income tax      | 1.5% to 5.9%, top rate above \$210,000 for single filers                                                      | None. Barred by Article VIII, Section 24-a                     |
| Sales and gross receipts | Gross receipts tax on goods and services. Hobbs 6.5625%, Carlsbad 7.3958%, Portales 8.55% (Jan. to June 2026) | 6.25% state plus up to 2% local, on a narrower base            |
| Medicaid                 | Expanded to adults                                                                                            | Not expanded. Parent in a family of three: \$230 a month limit |
| School finance           | State Equalization Guarantee funds operations centrally                                                       | Local property wealth, with recapture above entitlement        |
| Groundwater              | Public water appropriated by state permit                                                                     | Owned by the landowner as real property                        |

Sources: NM LFC fiscal impact report on CS/HB 252 (2024). NM Taxation and Revenue Department rate schedule, January to June 2026. Texas Comptroller. Texas HHSC. Tex. Water Code Sec. 36.002.

### EXHIBIT 11 REPRESENTATION BEFORE AND AFTER (POPULATION EQUIVALENTS)

|                                           | NEW MEXICO | TEXAS      |
|-------------------------------------------|------------|------------|
| State population, July 1, 2025            | 2,125,498  | 31,709,821 |
| Three counties' share of state population | 7.3%       | 0.5%       |

|                                           |              |               |
|-------------------------------------------|--------------|---------------|
| House seats                               | 70           | 150           |
| People per House seat                     | About 30,400 | About 211,400 |
| Three counties in House-seat equivalents  | About 5.1    | About 0.74    |
| Senate seats                              | 42           | 31            |
| Three counties in Senate-seat equivalents | About 3.1    | About 0.15    |

Method: our arithmetic from Census Bureau Vintage 2025 estimates. Districts are drawn on 2020 census counts, so these are population equivalents, not actual districts.

Today the counties' residents are a large bloc in a small legislature, and their counties produce most of the state's oil revenue. In Texas they would be less than one House district in a legislature of 150. They would pay no state income tax, would pay Texas property taxes under Texas appraisal rules, and would live under Texas rules on Medicaid, schools, and water. Whether that trade is worth making is theirs to decide.

#### EXHIBIT 12 THE NET PICTURE

|                                 | MOVES TO TEXAS                                         | TEXAS WOULD TAKE ON                                            | NEW MEXICO WOULD LOSE                                                                                                           |
|---------------------------------|--------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Production taxes                | About \$2.8 billion a year at Texas rates              | Railroad Commission regulation of a major producing region     | About \$2.7 billion of general fund oil and gas revenue, and about \$4 billion a year for trust funds and severance-tax bonding |
| Federal mineral receipts        | Most of the state share on Lea and Eddy federal leases | A statutory dispute over leases that "were" in New Mexico      | The same stream, now a large source for its trust funds                                                                         |
| Sales and gross receipts        | Texas sales tax on a narrower base (not estimated)     | None estimated                                                 | About 30% of its taxable gross receipts                                                                                         |
| Schools                         | Recapture from mineral-rich districts                  | 30,194 students, and aid to lower-wealth districts             | Its equalization obligations for those students                                                                                 |
| Medicaid                        | None                                                   | Texas rules and a 58.54% federal match for remaining enrollees | Costs for about 51,700 enrollees, at federal matches of 71.47% (regular) and 90% (expansion adults)                             |
| Trust lands and permanent funds | None                                                   | Another state as a large landowner                             | Nothing directly. Future inflows to its permanent funds fall                                                                    |

|       |                                           |                                                         |                                                 |
|-------|-------------------------------------------|---------------------------------------------------------|-------------------------------------------------|
| water | State jurisdiction around Urenco and WIPP | WIPP statute rewrite, Pecos River Compact renegotiation | Its WIPP payments and upstream compact position |
|-------|-------------------------------------------|---------------------------------------------------------|-------------------------------------------------|

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Sources: Exhibits 1, 9, 10, and the statutes and data cited in Section 9. Dollar figures are our estimates on a fiscal 2026 base.

**SECTION 10**

# Parity for the people of Texas

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## 10.1 This hearing invokes self-determination

The charge asks how part of another state could come to be governed from Austin instead of Santa Fe. The public case for it rests on a principle: people who believe a distant capital does not answer to them should be able to seek a government that does. That principle has a name. It is self-determination, the right of a people to decide who governs them. HJR 10 itself would have required a vote in each county before New Mexico consented, because the premise of the whole proposal is that people should have a say in who governs them. By holding this hearing, the Texas House has made that principle a subject of its own deliberation.

That is the right subject for a Texas House committee, and the right principle.

## 10.2 The principle does not stop at the state line

A principle the House will entertain for 156,000 residents of three New Mexico counties cannot be withheld from the people of Texas. Parity is the least that consistency requires, and on every point in Section 3 the people of Texas stand on stronger ground than the counties:

- The counties are subdivisions of another state. Texas is a state, and its people are the source of its government.
- The counties could leave only with New Mexico's consent and could claim at most a remedial right. The people of Texas hold the primary right, "at all times," under Article I, Section 2.
- The counties would take ground within New Mexico's boundaries. Texas would take nothing that is not Texas's.
- Texans chose their membership in the union by their own vote in 1845. Whether it continues is a question of the same kind, and it belongs to the same people.

If the weaker claim earns this House's deliberation, the stronger claim earns at least as much.

## 10.3 What parity asks

This hearing takes seriously the idea that the residents of three counties should have a say in which government answers to them. Parity asks the Legislature to take the same idea seriously for Texans. For Texas, the question is whether Texas continues as a member of the federal union, and the people of Texas are entitled to answer it.

The right is theirs. It is inherent, and it was never Washington's to give. What the Legislature controls is the ballot. Texas has no statewide citizen initiative, so a binding statewide question reaches the voters only if the Legislature sends it there. The 90th Legislature should send this one, as a peaceful vote of the people of Texas on Texas's continued membership in the union. The vote would decide the question. Any negotiation that followed would concern the terms, not the right.

#### THE OBJECTION FROM 1869

The right of a people to decide who governs them is inherent. It is older than the Constitution, and no clause of the Constitution forbids its exercise. Article I, Section 10 lists what the states may not do, and leaving the union is not on the list. Opponents cite *Texas v. White* (1869). That case was a suit over bonds. Its line about "an indestructible Union, composed of indestructible States" was not needed to decide it, and it concerned a separation declared by ordinance and settled by force of arms. A peaceful vote, followed by negotiation, is a different act. A court case about a war does not govern a vote. Whether a people may govern themselves is a political question, and the Texas Constitution has already answered it.

## SECTION 11

# Recommendations

Recommendations 1 and 4 are for the Committee's own report. Recommendations 2 and 3 are for the Legislature. Recommendations 5 to 7 ask agencies and staff for the analysis any negotiation would need, and recommendation 8 applies only if New Mexico consents. Recommendation 9 applies the same principle to the people of Texas.

#### EXHIBIT 13 RECOMMENDATIONS

|   | ACTION                                                                                                                                                                       | LEAD                                       | VEHICLE                            | WHEN                    |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|------------------------------------|-------------------------|
| 1 | Report that any transfer begins with the residents of each county and requires New Mexico's consent, and that Texas will accept no territory without both                    | Select Committee on Governmental Oversight | Interim report                     | Before January 12, 2027 |
| 2 | State Texas's terms in advance: a majority vote in each county, New Mexico's consent under its own constitution, a compact, and approval by the Legislature and Texas voters | 90th Legislature                           | Concurrent resolution (Section 17) | 2027 regular session    |

|   | constitutional amendment authorizing the compact and transition laws                                                                                                                                                                                                                                                         | Legislature                                                                 | Joint resolution under Article XVII          | Only after New Mexico and the counties have acted |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------|
| 4 | Report the federal question as it stands: no court has held that Congress must consent to a transfer between states, practice has always sought it, and federal statutes naming New Mexico need amendment in any case. State that the findings on how a county could move do not address the status of the people of a state | Select Committee                                                            | Interim report                               | Before January 12, 2027                           |
| 5 | Estimate the fiscal effects on production taxes, federal mineral receipts, school finance, Medicaid, highways, courts, and corrections                                                                                                                                                                                       | Comptroller, Legislative Budget Board, Texas Education Agency, HHSC         | Committee request                            | Before any negotiation                            |
| 6 | Assess renegotiation of the Pecos River Compact and the transition of surface water and groundwater rights                                                                                                                                                                                                                   | Texas Pecos River Compact Commissioner, TCEQ, Texas Water Development Board | Committee request                            | Before any negotiation                            |
| 7 | Close the data gaps: county oil and gas volumes, federal mineral receipts by county, trust revenue by county, and Medicaid enrollment by eligibility group                                                                                                                                                                   | Committee staff, with New Mexico agencies                                   | Records requests                             | Before the interim report                         |
| 8 | Model any compact on the Red River Boundary Compact and include the terms listed in Exhibit 6                                                                                                                                                                                                                                | Attorney General, General Land Office, and designated negotiators           | Compact                                      | Only if New Mexico consents                       |
| 9 | Apply the same principle to the people of Texas: send the question of Texas's continued membership in the union to the voters                                                                                                                                                                                                | 90th Legislature                                                            | A bill submitting the question to the voters | 2027 regular session                              |

Recommendation 1 puts on the record that Texas would act only on the vote of the people who live there. The Texas Constitution already requires that before a Texas county line moves.

Recommendation 2 answers the last sentence of the charge. A concurrent resolution states terms without committing Texas to anything New Mexico has not offered, and it tells the people of the counties what Texas would require of any proposal.

Recommendation 4 matters beyond this charge. A finding written loosely, as though Washington held a general power over the arrangement of the states, would say more than the law does. A finding confined to what the cases hold says exactly what the law does.

Recommendation 9 follows from the hearing itself. A House that deliberates on self-determination for residents of another state has no principled ground to refuse the people it represents a vote on their own status (Section 10).

## SECTION 12

# The principle in the record

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A boundary drawn with the consent of the people it moves holds. A boundary drawn any other way invites decades of litigation over titles, taxes, water, and jurisdiction, and this line has been to the Supreme Court before.

The principle is older than the charge. Article I, Section 2 of the Texas Constitution states it in one line: "All political power is inherent in the people." New Mexico's constitution says the same of New Mexicans. Texas asks the voters of two counties before it moves a line between them. It should ask no less of a state line.

The principle does not stop at the state line. This House has now deliberated on whether residents of three counties in another state may choose the government that answers to them. The people of Texas hold the stronger claim to the same choice, on the question of their own continued membership in the union, and next session the Legislature can put that question to them. We ask that the Committee's findings rest on the principle the Texas Constitution sets out in its Bill of Rights. Political power belongs to the people. The lines on the map follow their consent.

## REFERENCE

# Glossary

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**Compact Clause:** Article I, Section 10, Clause 3 of the United States Constitution, which provides that no state shall, without the consent of Congress, enter into any agreement or compact with another state. The Supreme Court applies it only to agreements that could increase state power at the expense of federal supremacy.

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**Interstate compact:** A binding agreement between states, enacted by each state's legislature. Once Congress consents, it becomes federal law.

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**Consent of Congress, express or implied:** Consent given by an act approving a compact, given in advance by statute, or inferred from later acts of Congress that treat the agreement as settled, as in *Virginia v. Tennessee* (1893) and *Virginia v. West Virginia* (1871).

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**Political subdivision:** A unit of local government, such as a county, created by a state and holding only the powers the state grants.

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**Secession:** The separation of part of a state from the whole. New Mexico's HJR 10 (2026) used the word for counties leaving New Mexico.

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**Texas independence:** The people of Texas deciding Texas's status by vote, including whether Texas continues as a member of the federal union. TNM does not call it secession, because no part is separated from a state.

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**Cancellation of membership:** Josette Baer's term (2000) for a state's departure from a union of states, as distinct from secession.

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**Self-determination:** The right of a people to decide its political status. International Covenant on Civil and Political Rights, art. 1(1).

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**Primary right:** A people's right to decide its political status that does not depend on first proving injury.

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**Remedial right:** A right to separate that exists only as a remedy for grave injustice, and only as a last resort.

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**Local or special law:** A law applying to a named place or class rather than to the state generally. Article III, Section 56 of the Texas Constitution bars them on many subjects.

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**Clark line:** The Texas-New Mexico boundary as surveyed by John H. Clark in 1859 and 1860, confirmed by Congress in 1891 and declared conclusive in 1911.

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**Enabling Act of 1910:** The act of Congress that authorized New Mexico's admission and granted it lands in trust for schools and other beneficiaries, subject to strict conditions on sale and lease.

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**State trust lands:** Lands granted to New Mexico in trust by the Ferguson Act of 1898 and the Enabling Act of 1910, and managed by the State Land Office. Their royalties fund the Land Grant Permanent Fund.

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**Land Grant Permanent Fund:** New Mexico's permanent fund built from trust land royalties and sales, distributed to public schools and other beneficiaries.

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**Severance Tax Permanent Fund:** New Mexico's permanent fund built from severance tax revenue above the amounts used for bonding.

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**Federal mineral leasing receipts:** Bonuses, rents, and royalties from federal oil and gas leases, half of which the federal government pays to the state where the leased lands lie.

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**Gross receipts tax:** New Mexico's tax on the gross receipts of businesses, which reaches most services as well as goods.

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**Recurring general fund:** A state's regular, repeating general fund revenue, excluding one-time receipts.

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**Recapture:** The Texas school finance mechanism, under Education Code chapter 49, by which districts whose local revenue exceeds their entitlement send the excess to the state.

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**Pecos River Compact:** The 1948 agreement between New Mexico and Texas apportioning the Pecos River, consented to by Congress in 1949 and administered under a Supreme Court decree.

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**River Master:** The officer appointed by the Supreme Court to compute New Mexico's delivery obligations under the Pecos River Compact decree.

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# Methodology

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We answer the Committee's charge as posted, using Lea, Eddy, and Roosevelt counties as the working case because New Mexico and Texas press accounts center on them. The legal analysis applies to any contiguous county.

Constitutional and statutory text was taken from official sources: the National Archives transcription of the United States Constitution, the Statutes at Large, the Texas Legislature's statute files, the New Mexico Compilation Commission's constitution, and nmlegis.gov. Case quotations were checked against the United States Reports and official state reporters. Economic figures come from the Census Bureau, the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Energy Information Administration, the Texas Comptroller, the Texas Education Agency, and New Mexico's Legislative Finance Committee, State Land Office, and Taxation and Revenue Department. Press accounts were used only to report public statements, and statements are attributed to the outlet that reported them.

The account of self-determination in Sections 3 and 10 follows the distinction between remedial and primary rights drawn in Allen Buchanan, "Theories of Secession" (1997). The international instruments and decisions cited in those sections are quoted from their official texts. Scholarly works are paraphrased, except one short phrase from Baer (2000).

Figures labeled as estimates are our arithmetic from the cited sources, with the method stated beside each exhibit. They are not official figures. They use a single fiscal year, fiscal 2026, and do not net out state spending in the counties.

#### EXHIBIT 14 LIMITATIONS OF THE EVIDENCE

| LIMITATION                                                                                                    | EFFECT                                                                                                    |
|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| County production volumes from New Mexico's Oil Conservation Division were not available to us in usable form | County oil and gas volumes are measured by taxable property value instead of barrels                      |
| We did not obtain federal mineral receipts by county                                                          | The share following the boundary is described, not estimated                                              |
| State Land Office revenue by county is not published                                                          | Trust revenue in the counties is described, not quantified                                                |
| Roosevelt County Medicaid enrollment appears anomalous in the source                                          | Roosevelt is omitted from the Medicaid figures                                                            |
| Lea and Eddy county commission records were reviewed in part                                                  | "No resolution found" reflects the records reviewed and press coverage                                    |
| No court has ruled on a transfer of this scale                                                                | Section 7 sets out the governing tests and the record of practice. It does not predict any court's ruling |
| Policy analysis, not a legal opinion                                                                          | Counsel should review any instrument before it is drafted or filed                                        |

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## APPENDIX

# Answering the interim charge

| CHARGE ELEMENT                                         | WHERE IT IS ANSWERED                   |
|--------------------------------------------------------|----------------------------------------|
| Constitutional implications                            | Sections 2, 3, 5, 6, and 7             |
| Statutory implications                                 | Sections 6 and 7, Exhibits 6 and 7     |
| Fiscal and economic implications                       | Section 9, Exhibits 9 to 12            |
| Pertinent provisions of the United States Constitution | Sections 7.1 to 7.3                    |
| Pertinent provisions of the Texas Constitution         | Sections 2 and 6                       |
| Pertinent provisions of the New Mexico Constitution    | Section 5                              |
| Relevant federal and state statutes                    | Sections 6.4 and 7.5, Exhibits 6 and 7 |
| Applicable judicial precedent                          | Sections 2, 3, 4, and 7                |
| Procedural steps at the state and federal level        | Section 8, Exhibit 8                   |
| Drafts of requisite legislation or resolutions         | Exhibit 6 and Section 17               |

## APPENDIX

# Model concurrent resolution

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*A model for the 90th Legislature, stating the terms on which Texas would consider adding territory now part of New Mexico. It commits Texas to nothing New Mexico has not offered. The Texas Legislative Council would put it in final form.*

## CONCURRENT RESOLUTION

WHEREAS, Article I, Section 2 of the Texas Constitution declares that all political power is inherent in the people, and the Constitution of New Mexico declares that all political power is vested in and derived from the people, and

WHEREAS, the counties of Texas and of New Mexico are legal subdivisions of their respective states, and no county may leave its state except by the consent of that state, and

WHEREAS, Article IX, Section 1 of the Texas Constitution forbids the Legislature to move any part of one Texas county into another until the voters of both counties approve, and

WHEREAS, members of the New Mexico Legislature proposed in 2026 an amendment to the New Mexico Constitution setting conditions under which New Mexico would consent to three or more contiguous counties leaving that state, and

WHEREAS, the boundary between Texas and New Mexico was fixed by agreement in 1850 and confirmed by law in 1891 and 1911, and it should change, if ever, only by the free consent of the people it would move and of both states, now, therefore, be it

RESOLVED, That the 90th Legislature of the State of Texas hereby declares that Texas will take no territory from any state, and will consider adding territory now part of New Mexico only upon the free consent of the people who live on it and of the State of New Mexico, and, be it further

RESOLVED, That Texas will consider a proposal to add a county of New Mexico contiguous to Texas only if (1) a majority of the voters of that county voting at an election held under the laws of New Mexico approve the change, (2) the State of New Mexico consents under its constitution and laws, (3) Texas and New Mexico conclude a compact settling sovereignty, pending proceedings, public records, land titles, state trust lands, surface and ground water rights, the Pecos River Compact, public debts, public employees and pensions, taxation during the transition, and the institutions and federal installations located in the county, and (4) the voters of Texas approve a constitutional amendment authorizing the compact, and the Legislature enacts it, and, be it further

RESOLVED, That the Texas secretary of state forward official copies of this resolution to the Governor of New Mexico and the presiding officers of the New Mexico Legislature.