

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Seventh Session
February 19, 2013**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Pat Spearman at 9:05 a.m. on Tuesday, February 19, 2013, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Mark A. Manendo, Vice Chair
Senator Kelvin Atkinson
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Donald G. Gustavson, Senatorial District No. 14

STAFF MEMBERS PRESENT:

Carol M. Stonefield, Policy Analyst
Melissa Mundy, Counsel
Kaci Kerfeld, Committee Secretary

OTHERS PRESENT:

Carol Howell
Christopher Corbett, Nevada State Coordinator, People Against the National
Defense Authorization Act
John Wagner, State Chairman, Independent American Party
Chris Burns
Stuart L. Posselt
Richard Brengman
John Vettel

Dennis Johnson
Phylliss J. Degross
Jim Falk
Jim Moneyhun, Nevada Clean Up The Vote
Bob Hastings
Jodi Starkey
Jim Sallee
Daphne Lee, Clark County Chapter Head, People Against the National Defense
Authorization Act
Cynthia Madden

Chair Spearman:

Today we are going to hear testimony on Senate Joint Resolution (S.J.R.) 3.

SENATE JOINT RESOLUTION 3: Claims sovereignty under the Tenth
Amendment to the United States Constitution. (BDR R-692)

Senator James A. Settelmeyer (Senatorial District No. 17):

The bill we are discussing today is a Tenth Amendment resolution. This bill is similar to our United States Constitution in many respects. It is nonpartisan and is neither a left issue nor a right issue. This is about sending a message to Washington, D.C., about the Tenth Amendment. Versions of this bill have been proposed in the past. I had one myself last Session, S.J.R. No. 6 of the 76th Session, that unfortunately did not get passed; however, a version of this bill did pass in 1995, S.J.R. No. 1 of the 68th Session. In 1995, there was only one person on the Senate who voted no, and it passed unanimously in the Assembly. During that time, even Senator Bob Coffin and Senator—now Congresswoman—Dina Titus voted for the bill.

The question becomes why there is a need to send the same message to Washington, D.C., again. We need to remind the federal government of the meaning of the Tenth Amendment. Any resolution we approve only lasts for 2 years since we meet biennially. In that respect, it needs to be done again. One of the things I look at within the Tenth Amendment is that the power not delegated nor prohibited to the United States in the Constitution is reserved to the states or respectively to the people.

Consider the federal mandates that we cannot afford in these economic times. Even though some of these concepts may be grave, without providing the

funding or allowing us to make the decision whether to implement the mandates violates the Tenth Amendment. For example, in Douglas County, as with many of the counties in the State of Nevada, we are having problems with the arsenic standards for drinking water. The arsenic standards used to be 100 parts per billion. The federal government decided to arbitrarily change the requirement to 10 parts per billion without statistical information to back it up. A lot of communities' water systems could no longer meet the standard. These communities are faced with the decision of either building an arsenic plant to take the contaminants out, which would cost anywhere from \$2 million to \$27 million, or connecting all of the water well systems together. Douglas County has gone forward with connecting the water well systems. It costs millions of dollars to connect the different pumps together in order to meet the solution factor of 10 parts per billion.

The Federal Emergency Management Agency (FEMA) sets forth flood regulations. Two years ago in Douglas County, FEMA decided to declare 2,500 acres a flood zone. We could show that this area has never been under water in the history of recorded time, yet FEMA declared that it was in a flood plain. This meant that everyone in this area, including Douglas County, was required to purchase flood insurance. This is a cost that the community could not bear—luckily we were able to go to the Carson Water Subconservancy District. The County spent around \$150,000 in argument with the federal government trying to have FEMA take another look at the area, which FEMA is doing.

In the *Federalist Paper Number 45*, James Madison said the powers delegated by the proposed constitution of the federal government are few and very defined. You can reference that in Article I, Section 8 of the United States Constitution. Among the defined powers are establishing a military, coining money and punishing individuals who try to claim money without permission of the federal government. The powers that remain for the state governments are supposed to be numerous and indefinite. That is not what has been occurring in recent history.

The Tenth Amendment was adopted 222 years ago. The federal government has forgotten that Nevadans know that the people created state governments in the beginning, and the state governments created the federal government. We want to remind the federal government of our constitutional rights. This

resolution seeks to protect the citizens of the Silver State from the overreaching federal government.

Carol Howell:

I am here in support of S.J.R. 3. The federal government has overstepped and is trampling on state rights. It is important for Nevada's government to declare that it is a sovereign state. I would encourage you to let the entire Legislature vote on it. I cannot imagine anyone voting against the Tenth Amendment of the United States Constitution.

Christopher Corbett (Nevada State Coordinator, People Against the National Defense Authorization Act):

I will read from my prepared testimony ([Exhibit C](#)).

John Wagner (State Chairman, Independent American Party):

I would like to share an example of the overreach of the federal government. A street sign in my neighborhood blew down and was replaced with a new one. The new one is bigger than the old one, so I asked why. The worker told me that the larger street signs are now required by the federal government. I looked through the Constitution of the United States and I did not see anything that says the federal government has control over the size of our signs. It is time for the federal government to be told to follow our U.S. Constitution.

Chris Burns:

I also support this bill. We elected you to represent us in this State. The federal government has taken too many resources from our State—we do not even control all of our land within our State boundaries. Each one of you took an oath to uphold the Constitution of this Country and that of our State. It is a logical step to reaffirm the commitment you publicly made to us, that you support the laws of this land. This would be a great example that we can continue to place confidence in our elected officials, that they will hold to the oaths that they took to support the laws of this land and what is best for our State. We need to remind our Senators who move into federal positions that they are there to represent us. You have the power and ability to help remind federal legislators that they were elected by this State, not by this Country. We need them to represent our State and our interest. Federal representatives have taken the same oath, and if they are not going to hold and honor that oath, then we need to know so that we do not reelect them.

Stuart L. Posselt:

I have discussed the United Nations Agenda 21 with a number of groups. I can allege that I represent several hundred people who are not here today. I will now read my prepared testimony and an amendment ([Exhibit D](#)).

The International Council for Local Environmental Initiatives (ICLEI) tends to control most of the money. There is a huge fight in the San Francisco Bay area now involving ICLEI, the Association of Bay Area Governments and the Metropolitan Transportation Commission. It is drawing hundreds of people to hearings regarding the forcing of stack-and-pack housing in designated residential areas.

Senator Cegavske:

Did you have a chance to talk to Senator Settelmeyer about your recommendations for amendments?

Mr. Posselt:

No, not my specific amendment, but I have talked to Senator Settelmeyer regarding Agenda 21.

Richard Brengman:

Over years of observing the Legislature, I have seen many instances of federal government blackmail. When the federal government wants something done, such as changing our speed limits, DUI standards or age of consent, it always threatens the same thing—to withhold our funding. The federal government threatens to take away funds such as highway funds or education funds. The people we elected to the Legislature find themselves with no choice but to comply. I find that very offensive. This bill should be passed to tell the federal government that we are not accepting blackmail. You are here to represent the people in Nevada, not the federal government. Nevada needs to be managed by Nevadans, not federally elected officials. Nevada's business needs to be taken care of by Nevada. Many people move to Nevada because Nevada was freer than the states they left. We have 50 states and 50 legislatures. If something about the state you reside in offends you to the point where you cannot abide by it anymore, you can look around at the other 49 states and choose to move somewhere more to your liking. If the federal government homogenizes all states to be the same, then we are no longer 50 states—we are the federal republic, not the constitutional republic we are supposed to be.

John Vettel:

I am a retired air force lieutenant colonel. I served 21 years in the military to protect and defend the Constitution of the United States. The Constitution of the United States is the fundamental basic law that governs all of us. It cannot be changed except by a very specific process. Unfortunately, through a number of years of neglect we have allowed this Country's organizational chart to become inverted. According to the U.S. Constitution, the federal government does not sit at the top—it sits at the bottom. The individual is sacred in our republic, then comes family, city governments, state governments and, finally, the federal government at the bottom. The federal government dictates so much of our daily lives that it is difficult to control. We can control the members of our board of supervisors to some degree and the Legislators to a lesser degree. We have little or no control over the federal government. The federal government is exerting control over our alliance that far exceeds what was ever intended by the founders. This is clear in the Federalist Papers and the Constitution. I stand in support of this resolution. We need to make a strong statement that we are tired of the federal government telling us what to do and how to run our lives. Every state should do this.

Dennis Johnson:

My interest in the Tenth Amendment started in 1987 when I was on a trip to Washington, D.C. I picked up *Notes of Debates in the Federal Convention of 1787* by James Madison. Reading that book and later reading the notes on the debates of the Bill of Rights from the House of Representatives, it became clear what the Founding Fathers, Congress, the federalists and the antifederalists intended. This request needs to be passed by this Committee and sent to the full Senate and Assembly. We need to get back to what the government is supposed to be at the federal level as proposed and outlined by the framers of the U.S. Constitution. After reading the documents I mentioned, it is clear what the strong limitations on the federal government are supposed to be and what powers the states have according to the Tenth Amendment. Money sent to Washington, D.C. is appropriated as the federal government sees fit. There is a large amount of money wasted that we could use locally instead of letting the federal government tell us what we can spend.

Phyliss J. Degross:

My husband and I moved here from Florida in 2002 to get away from the politics. We loved Nevada and what the Legislature and the State of Nevada did for their people. We thought we could come to Nevada to retire and be safe

from anything that may try to harm us. I now find myself talking to people about what we are afraid of. I did not intend to worry during my retirement about what the federal government may do to us and if Nevada will protect us. I speak to you on behalf of many women in Nevada—We are all in fear and do not know what Nevada is going to do or if the federal government is going to take away our rights. We elected you and need your help to protect Nevadans. We do not want the federal government coming into our State and taking away our rights. The Tenth Amendment is part of the U.S. Constitution. The Constitution was written by the people who wanted the best for us. Please restore our rights and please think about the citizens depending on you.

Jim Falk:

I am here in support of S.J.R. 3. I am retired from the military, which gives me a vested interest in this Country. I assume you are aware of Agenda 21 and the threats it poses to our civilization. The Founding Fathers who crafted our U.S. Constitution were intelligent. The Founders studied past civilizations and knew why they failed and what would have made them work. They crafted the U.S. Constitution and its amendments to guide us on a proper path that would lead us to prosperity and fairness for all. We need to follow the U.S. Constitution. If we defend and protect it, we will live in prosperity and happiness for many years to come.

Jim Moneyhun (Nevada Clean Up The Vote):

Nevada Clean Up The Vote is loosely associated with True the Vote from Texas and with the California Election Integrity Project. We had success last year by helping the Clark County Registrar of Voters Larry Lomax clear the rolls of approximately 2,600 voters. We found 260 voters who were voting for a deceased person. We are in opposition to Secretary of State Ross Miller's approach to online voter registration. We believe that the trend from the U.S. Congress is to ease the ability to commit fraud. We are in support of the Tenth Amendment to prevent us from having to abide by federal laws, proceeding toward same-day voter registration and a number of other issues to which we are opposed. Protection from the federal government incursion into state law is going to diminish the ability of allowing voters to vote.

Bob Hastings:

Most of us know of the legendary college basketball coach Jerry Tarkanian. Mr. Tarkanian was a person who taught his team to only do one or two things and to do them extremely well. He loved playing against a team that tried to do

everything. When the team tried to do too much, it could not do anything well. Our federal government is doing too many things and not doing them well. Federal officials are ignoring the Constitution and trying to take on more. Now they are stepping on the states, forcing laws and regulations causing the states to not work well. We need to be the team that does one or two things well. The U.S. Constitution has not put governing in the federal government's hands but in your hands. The U.S. Constitution says that in Nevada, the Legislators should be making the laws and regulations.

Senator Donald G. Gustavson (Senatorial District No. 14):

I come here in support of S.J.R. 3. I feel very strongly about the Tenth Amendment and the Constitution. The Tenth Amendment protects us from the federal government. People have traveled here from all over the State because they feel strongly about this issue. Congress continually makes laws that are unconstitutional. According to Article I, Section 8 of the U.S. Constitution, Congress does not have the authority to do so. Congress makes laws anyway and uses the supremacy clause in the Constitution to say that it has the power to do so, but in reality it does not. Article VI, Clause 2 of the Constitution says "This Constitution, and the laws of the United States which shall be made in Pursuance thereof" The laws of Congress can be supreme only if it meets the requirements of the Constitution. When laws are not made according to the U.S. Constitution, they are null and void. I strongly urge this Committee to pass this resolution.

Jodi Starkey:

Not only has the federal government overstepped, but it continually passes legislation by unanimous consent. There is no debate, and often our representatives do not even read the legislation they vote on. We should not be bound by legislation that was not read or regulations that were passed by executive order and skipped the Congressional process entirely.

Jim Sallee:

I have an article titled "Danger: Federal Regulatory Cliff Ahead" from *The New American* magazine ([Exhibit E](#)). The headline reads "The U.S. government says that in the last 90 days, it instituted nearly 6,000 new rules, with loads more to come. If its plans remain unchecked, we'll face another economic 'cliff.'"

In a 14-page minority report issued by the United States Senate Committee on Environment and Public Works in October 2012, titled "A Look Ahead to EPA Regulations for 2013," U.S. Senator James Inhofe warned the "... numerous Obama EPA rules placed on hold until after the election spell doom for jobs and economic growth." Dozens of federal agencies and departments are engaged in the unconstitutional process of legislation through regulation. This has brought about the unconstitutional fourth branch of government. In 2011, Congress passed 81 bills into law. During that same period, federal agencies promulgated 3,807 regulations—rules that are treated as if they are binding law. However, administrative law promulgated and enforced by steadily multiplying rogue agencies has become so routine that it is rarely questioned anymore. The U.S. Constitution states that the elected Legislators of Nevada have more power than the agencies that promulgate these rules. We need you to stand in between them and us to protect the people of this State.

Daphne Lee (Clark County Chapter Head, People Against the National Defense Authorization Act):

We are in support of this resolution. The National Defense Authorization Act is an example of the federal government writing an unconstitutional law and trying to impose that law upon us. Nevadans know what is best for us. I would like to see that power returned to allow the people who represent our State to make decisions on how our money is spent.

Cynthia Madden:

I have seen the amount of freedom we have change. In the past few years, I began looking into the restrictions put on the American people. I have become fearful of the federal government's power for many reasons, including the following: the money system; the IRS; Federal Emergency Management Agency camps; the federal government owning 80 percent of Nevada's land; voting machines that have no hard copies; educational controls; gun issues; the USA PATRIOT Act; the Department of Homeland Security; information-gathering procedures; street cameras; Agenda 21; the microchipping of people; arrests being made without warrants; incarcerating people for no specific time frame; and not allowing a trial by jury.

The antibullying campaign started in 1999 and has spread throughout the United States. Nevada is being bullied by the federal government. As Legislators, you are losing your power just like we are. You are the closest thing we have to people who can voice our opinions and represent us.

Senator Settelmeyer:

This is a nonpartisan issue. Some of us are members of an organization that puts forward Jeffersonian principles. There are other members of this Committee who go to Jefferson-Jackson dinners. Thomas Jefferson described the Tenth Amendment as the foundation of the Constitution: "To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition."

Senate Committee on Legislative Operations and Elections
February 19, 2013
Page 11

Chair Spearman:

Having no further business, we are adjourned at 9:53 a.m.

RESPECTFULLY SUBMITTED:

Kaci Kerfeld,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	10		Attendance Roster
S.J.R. 3	C	1	Christopher Corbett	Prepared Testimony
S.J.R. 3	D	1	Stuart Posselt	Prepared Testimony
S.J.R. 3	E	4	Jim Sallee	<i>The New American</i> Magazine Article