

ASSEMBLY BILL NO. 441—ASSEMBLYMEN WHEELER, ELLISON,  
HAFEN; HARDY, KRAMER, LEAVITT AND TITUS

MARCH 25, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Creates the Joint Legislative Committee on  
Federalism. (BDR 17-993)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to legislative affairs; creating the Joint Legislative  
Committee on Federalism; setting forth the composition  
and administration of the Committee; prescribing the  
powers and duties of the Committee; and providing other  
matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes various committees on which Legislators serve throughout the interim between legislative sessions. (Chapter 218E of NRS) **Section 7** of this bill creates the Joint Legislative Committee on Federalism, consisting of two members of the Senate and two members of the Assembly.

**Sections 9-11** of this bill require the Joint Legislative Committee on Federalism to review whether a federal law is authorized by specified provisions of the United States Constitution or is consistent with the principles of federalism. Under **section 12** of this bill, if the Committee determines that a federal law is not authorized by the United States Constitution, or violates the principles of federalism, the Committee may: (1) request a meeting with members of the Congress of the United States and the federal governmental entity responsible for adopting or administering the federal law; or (2) make recommendations to the Legislature. Additionally, **section 12** requires the Committee to prepare and deliver an annual report to the Legislature setting forth: (1) any federal law determined by the Committee to be unauthorized by the United States Constitution or violative of the principles of federalism; and (2) any action taken by the Committee and any communication received by the Committee. **Section 12** also requires such a report to be posted on the Internet website maintained by the Legislature.

**Section 13** of this bill authorizes the Committee to correspond with the presiding officer of the legislative branch of another state or an entity of another state that has powers and duties that are similar to the Committee to discuss and coordinate the evaluation of and response to federal law as provided in this bill.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Committee” means the Joint Legislative Committee on Federalism created by section 7 of this act.*

**Sec. 4.** *“Federal governmental entity” means:*

- 1. The President of the United States;*
- 2. The Congress of the United States;*
- 3. A United States agency; or*
- 4. An employee or official appointed by the President of the United States.*

**Sec. 5.** *“Federal law” means:*

- 1. An executive order of the President of the United States;*
- 2. A statute passed by the Congress of the United States;*
- 3. A regulation adopted by a United States agency; or*
- 4. A policy statement, guidance or action by:*
  - (a) A United States agency; or*
  - (b) An employee or official appointed by the President of the United States.*

**Sec. 6.** *“United States agency” means a department, agency, authority, commission, council, board, office, bureau or other administrative unit of the Executive Branch of the United States Government.*

**Sec. 7. 1.** *The Joint Legislative Committee on Federalism is hereby created.*

- 2. The membership of the Committee consists of:*
  - (a) The Majority Leader of the Senate, or his or her designee;*
  - (b) The Minority Leader of the Senate, or his or her designee;*
  - (c) The Speaker of the Assembly, or his or her designee; and*
  - (d) The Minority Leader of the Assembly, or his or her designee.*

*3. The Committee shall elect a Chair from among its members.*

**Sec. 8. 1.** *The Committee shall meet as frequently as required to perform its duties, but not less than four times each year.*



2. Three members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

3. The Committee shall prescribe rules for its own management and government.

4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

5. All such compensation, per diem allowances and travel expenses pursuant to subsection 4 must be paid from the Legislative Fund.

**Sec. 9.** The Committee shall evaluate whether a federal law is authorized by:

1. Section 2 of Article 1 of the United States Constitution, to provide for the decennial census;

2. Section 4 of Article 1 of the United States Constitution, to override state laws regulating the times, places and manner of congressional elections, other than the place of senatorial elections;

3. Section 7 of Article 1 of the United States Constitution, to veto bills, orders and resolutions by the Congress of the United States;

4. Section 8 of Article 1 of the United States Constitution, to:

(a) Levy and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States;

(b) Borrow money on the credit of the United States;

(c) Regulate commerce with foreign nations, among the several states and with the Indian tribes;

(d) Establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;

(e) Coin money, regulate the value of coin money and of foreign coin and fix the standard of weights and measures;

(f) Provide for the punishment of counterfeiting the securities and current coin of the United States;

(g) Establish post offices and post roads;

(h) Promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;



(i) *Constitute tribunals inferior to the United States Supreme Court;*

(j) *Define and punish piracies and felonies committed on the high seas and offences against the law of nations;*

(k) *Declare war, grant letters of marque and reprisal and make rules concerning captures on land and water;*

(l) *Raise and support armies;*

(m) *Provide and maintain a navy;*

(n) *Make rules for the government and regulation of the land and naval forces;*

(o) *Provide for calling forth the militia to execute the laws of the United States, suppress insurrections and repel invasions;*

(p) *Provide for organizing, arming and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by the Congress of the United States;*

(q) *Exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed 10 miles square, as may, by cession of particular states and the acceptance of the Congress of the United States, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings; or*

(r) *Make all laws which shall be necessary and proper for carrying into execution the powers listed in Section 8 of article 1 of the United States Constitution and all other powers vested by the United States Constitution in the government of the United States or in any department or officer of the United States;*

5. *Section 9 of Article 1 of the United States Constitution, to authorize a federal officer to receive benefits from a foreign nation;*

6. *Section 10 of Article 1 of the United States Constitution, to fix the pay of members of the Congress of the United States and of federal officers;*

7. *Section 1 or Article II of the United States Constitution, to:*

(a) *Set the time for choosing electors; or*

(b) *Establish who succeeds to the presidency after the Vice President;*

8. *Section 2 of Article II of the United States Constitution, to:*

(a) *Serve as Commander in Chief of the Armed Forces;*

(b) *Require the written opinions of executive officers;*

(c) *Grant reprieves and pardons;*



- (d) *Make vacancy appointments;*  
(e) *Make treaties, subject to the advice and consent of the United States Senate;*  
(f) *Appoint foreign affairs officers subject to the advice and consent of the United States Senate;*  
(g) *Appoint domestic affairs officers subject either to the advice and consent of the United States Senate or pursuant to law;*  
(h) *Appoint judges subject to the advice and consent of the United States Senate; or*  
(i) *Authorize the President of the United States to fill designated inferior offices without senatorial consent;*  
9. *Section 3 of Article II of the United States Constitution, to:*  
(a) *Receive representatives of foreign powers;*  
(b) *Execute the laws;*  
(c) *Commission United States officers;*  
(d) *Give Congress information;*  
(e) *Make recommendations to Congress;*  
(f) *Convene Congress, or either House, on extraordinary occasions; or*  
(g) *Adjourn Congress if it cannot agree on a time;*  
10. *Article III of the United States Constitution, to:*  
(a) *Create exceptions to the United States Supreme Court's appellate jurisdiction;*  
(b) *Fix the jurisdiction of federal courts inferior to the United States Supreme Court; or*  
(c) *Declare the punishment for treason;*  
11. *Section 1 of Article IV of the United States Constitution, to establish the rules by which the records and judgments of states are proved other states;*  
12. *Section 3 of Article IV of the United States Constitution, to:*  
(a) *Manage federal property;*  
(b) *Dispose of federal property;*  
(c) *Govern the federal territories; or*  
(d) *Consent to admission of new states or the combination of existing states;*  
13. *Section 4 of Article IV of the United States Constitution, to defend states from invasion, insurrection and nonrepublican forms of government;*  
14. *Section 1 of Article V of the United States Constitution, to propose constitutional amendments;*  
15. *Section 1 of Article VI of the United States Constitution, to prescribe the oath for federal officers;*  
16. *Amendment XIII to the United States Constitution, to abolish slavery;*



1 *17. Amendment XIV to the United States Constitution, to*  
2 *guard people from certain state abuses;*

3 *18. Amendment XVI to the United States Constitution, to*  
4 *impose taxes on income from any source without having to*  
5 *apportion the total dollar amount of tax collected from each state*  
6 *according to each state's population in relation to the total*  
7 *national population;*

8 *19. Amendment XX to the United States Constitution, to*  
9 *revise the manner of presidential succession;*

10 *20. Amendment XV, XIX, XXIII or XXIV to the United States*  
11 *Constitution, to extend and protect the right to vote; or*

12 *21. Amendment XVII to the United States Constitution, to*  
13 *grant a pay raise to a sitting Congress.*

14 **Sec. 10.** *The Committee shall evaluate whether a federal law*  
15 *violates the principles of federalism by:*

16 *1. Affecting the distribution of power and responsibility*  
17 *among the state and national government;*

18 *2. Limiting the policymaking discretion of the state;*

19 *3. Impacting a power or a right reserved to the state or its*  
20 *citizens by the Ninth or Tenth Amendment to the United States*  
21 *Constitution; and*

22 *4. Impacting the sovereignty rights and interest of the state or*  
23 *a political subdivision to provide for the health, safety and welfare*  
24 *and promote the prosperity of the state's or political subdivision's*  
25 *inhabitants.*

26 **Sec. 11.** *In the evaluation of a federal law pursuant to*  
27 *section 9 or 10 of this act, the Committee:*

28 *1. Shall rely on:*

29 *(a) The text of the United States Constitution, as amended;*  
30 *and*

31 *(b) The meaning of the text of the United States Constitution,*  
32 *as amended, at the time of its drafting and ratification;*

33 *2. A primary source document that is:*

34 *(a) Directly relevant to the drafting, adoption, ratification or*  
35 *initial implementation of the United States Constitution, as*  
36 *amended; or*

37 *(b) Created by a person directly involved in the drafting,*  
38 *adoption, ratification or initial implementation of the United*  
39 *States Constitution, as amended;*

40 *3. May rely on other relevant sources, including federal court*  
41 *decisions; and*

42 *4. Is not bound by a holding of a federal court.*

43 **Sec. 12.** *1. If the Committee determines that a federal law*  
44 *is not authorized by the United States Constitution or violates the*  
45 *principles of federalism, the Committee may:*



1       (a) *Request a meeting with members of the Congress of the*  
2 *United States and the federal governmental entity responsible for*  
3 *adopting or administering the federal law; or*

4       (b) *Make recommendations to the Legislature.*

5       2. *On or before January 10 of each year, the Committee shall*  
6 *prepare and deliver to the Director of the Legislative Counsel*  
7 *Bureau for transmittal to the Legislature or, if the Legislature is*  
8 *not in session, to the Legislative Commission, a report setting*  
9 *forth:*

10      (a) *Any federal law determined to be unauthorized by the*  
11 *United States Constitution or violative of the principles of*  
12 *federalism;*

13      (b) *Any action taken by the Committee and any*  
14 *communication received by the Committee.*

15      3. *The report required pursuant to subsection 2 must be*  
16 *posted on the Internet website maintained by the Legislature.*

17      **Sec. 13.** *The Committee may correspond with the presiding*  
18 *officer of the legislative branch of another state or an entity of*  
19 *another state that has powers and duties that are similar to the*  
20 *Committee to discuss and coordinate the evaluation of and*  
21 *response to federal law as provided in sections 2 to 13, inclusive,*  
22 *of this act.*

23      **Sec. 14.** The provisions of subsection 1 of NRS 218D.380 do  
24 not apply to any provision of this act which adds or revises a  
25 requirement to submit a report to the Legislature.



