

SENATE JOINT RESOLUTION 9

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Gerald Ortiz y Pino and George K. Muñoz and D. Wonda Johnson

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

A JOINT RESOLUTION

PROPOSING TO REPEAL AND REPLACE ARTICLE 9, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO, COMMONLY KNOWN AS THE ANTI-DONATION CLAUSE, TO ALLOW THE STATE, VIA IMPLEMENTING LEGISLATION, TO PROVIDE ASSISTANCE TO PRIVATE ORGANIZATIONS SRC→, ~~INCLUDING INDIAN NATIONS, TRIBES AND PUEBLOS,~~←SRC FOR THE PURPOSES OF DISASTER RELIEF, MAKING PAYMENTS TO A CLASS OF INDIVIDUALS AS PART OF A PROGRAM WITH ELIGIBILITY CRITERIA AND OBLIGATIONS, PROMOTING COMMUNITY WELL-BEING AND ESTABLISHING SCHOLARSHIP AND

.223180.2AIC February 17, 2023 (2:41pm)

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LOAN PROGRAMS FOR POST-SECONDARY STUDENTS, WHILE PROVIDING NEW REQUIREMENTS FOR IMPLEMENTING LEGISLATION FOR PREVIOUSLY EXISTING EXCEPTIONS TO THE ANTI-DONATION CLAUSE, AND TO REPEAL ARTICLE 4, SECTION 31 OF THE CONSTITUTION OF NEW MEXICO, WHICH PROHIBITS CERTAIN APPROPRIATIONS FOR CHARITABLE, EDUCATIONAL OR OTHER BENEVOLENT PURPOSES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 9 of the constitution of New Mexico by repealing Section 14 and adding a new Section 14 to read:

"A. The state shall not directly or indirectly lend or pledge its credit in the aid of or make any donation to any private organization except as otherwise provided in this constitution; provided that nothing in this section prohibits the state from providing assistance by:

- (1) making provisions for the care and maintenance of sick or indigent persons;
- (2) providing disaster relief to individuals, businesses and charitable organizations;
- (3) making payments to a class of individuals as part of a program that identifies the eligibility criteria for receipt of funds SRC → ~~and the obligations, if any, of the class of individuals receiving the payments~~ ← SRC ;
- (4) promoting community well-being through

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grants to charitable organizations;

(5) establishing scholarship and loan programs for post-secondary students who are residents of New Mexico, including programs for loan forgiveness;

(6) creating new job opportunities:

(a) by providing land, buildings or infrastructure for facilities to support new or expanding businesses; or

(b) through economic development and job creation programs;

(7) expending funds or resources for the purpose of providing essential services and accessibility to essential services for residential purposes; or

(8) supporting affordable housing projects by donating, providing or paying a portion of the costs of:

(a) financing or infrastructure necessary for affordable housing;

(b) land for the construction of affordable housing; or

(c) construction, conversion or renovation of buildings into affordable housing.

B. The exceptions described in Paragraphs (2) through (8) of Subsection A of this section are not self-executing. Before the assistance may be provided, implementing legislation shall be enacted by a majority vote of the members

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elected to each house of the legislature or of the governing body of a political subdivision of the state. The implementing legislation shall:

(1) include safeguards to protect public money and other public resources used for the purposes authorized;

(2) establish eligibility criteria for the recipients of the assistance;

(3) provide the manner in which the assistance primarily and directly benefits the public;

(4) provide due diligence and accountability for any purchase, lease or improvement of buildings and any purchase or lease of vehicles or equipment by private organizations, including clawbacks if a project is not successfully completed;

(5) determine if private organizations receiving grants shall be subject to public audits for those programs where assistance is provided;

(6) when promoting community well-being:

(a) define "community well-being"; and

(b) set ascertainable benchmarks to evaluate achievement of community well-being;

(7) when creating new job opportunities pursuant to Paragraph (6) of Subsection A of this section, provide that:

(a) each project by the state shall be

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approved by law or authorized by a legislatively approved council designated to approve such projects and whose membership includes members of the public and representatives of the executive and legislative branches of government;

(b) each project by a political subdivision of the state need not be approved by the legislature but shall be approved by the governing body of the political subdivision pursuant to procedures provided in the implementing state legislation; and

(8) when authorizing an affordable housing project pursuant to Paragraph (8) of Subsection A of this section:

(a) require prior approval by law of an affordable housing assistance grant by the state;

(b) define "affordable housing";

(c) contain provisions to ensure the successful completion of an affordable housing project supported by the state's assistance;

(d) require the governing body of the instrumentality of the state, designated by the legislature as the state's housing authority, to give prior approval, by resolution, for affordable housing grants that are to be given by the instrumentality; and

(e) require a county or municipality providing housing assistance to give prior formal approval by

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ordinance for a specific affordable housing assistance grant and include in the ordinance the conditions of the grant.

C. Notwithstanding the provisions of Subsection B of this section, implementing legislation in effect on November 1, 2024 that comply with the previous provisions of Article 9, Section 14 of the constitution of New Mexico that are repealed by this 2023 amendment shall be deemed to comply with the provisions of this section until June 30, 2026, by which date the legislature shall conform that implementing legislation with the provisions of this section.

D. As used in this section:

(1) "assistance" does not include a private organization providing a governmental function based on fair market consideration for goods or services that are direct, ascertainable and contractually obligatory;

(2) "charitable organization" means a federally recognized, tax-exempt organization that is organized for charitable, literary SRC→,←SRC SRC→or←SRC educational SRC→ ~~or other eleemosynary~~←SRC SRC→purpose←SRC SRC→purposes←SRC ;

(3) "essential services" means infrastructure that allows internet, energy, water, wastewater or other similar services as provided by law;

(4) "private organization" means a person, association, public or private corporation, charitable

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organization, community or private enterprise that is not under the absolute control of the state SRC → ~~and includes a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico~~ ← SRC ; and

(5) "the state" means the state or its institutions, the state housing authority that is established by law or any political subdivision of the state."

SECTION 2. It is proposed to amend Article 4 of the constitution of New Mexico by repealing Section 31.

SECTION 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

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