

CONSTITUTIONAL AMENDMENTS

PROPOSED BY THE LEGISLATURE IN 2001 AND 2002

**APPEARING ON THE NOVEMBER 5, 2002
GENERAL ELECTION BALLOT**

**BRIEF ANALYSIS
AND
ARGUMENTS FOR AND AGAINST**

New Mexico Legislative Council Service
411 State Capitol
Santa Fe, New Mexico 87501
August 2002

TABLE OF CONTENTS

Foreword.....	1
Constitutional Amendment 1.....	2
Constitutional Amendment 2.....	5
Constitutional Amendment 3.....	8
Constitutional Amendment 4.....	10
Constitutional Amendment 5.....	13
Constitutional Amendment 6.....	16
Constitutional Amendment 7.....	22
Constitutional Amendment 8.....	25
Constitutional Amendment 9.....	29

FOREWORD

On November 5, 2002 nine proposed constitutional amendments will appear on the general election ballot as the result of the passage of joint resolutions by the legislature in its 2001 session. No joint resolutions proposing constitutional amendments were passed in the 2002 legislative session.

LAWS

SUBJECT

CA 1 (2001)	Veterans' property tax exemption
CA 2 (2001)	Voter qualifications
CA 3 (2001)	Judicial districts
CA 4 (2001)	Alien ownership of real property
CA 5 (2001)	Disabled veteran property tax exemption
CA 6 (2001)	Donation by state, county or municipality of land, buildings or costs of infrastructure for affordable housing
CA 7 (2001)	Cesar Chavez holiday
CA 8 (2001)	Vietnam veterans' scholarship eligibility
CA 9 (2001)	Change state highway commission to state transportation commission

For adoption, constitutional amendments require ratification by a majority of the electors voting on the question. Proposed constitutional amendments become effective upon approval by the voters unless an effective date is provided within the text of the proposed amendment.

This publication contains the full text of the joint resolutions proposing the constitutional amendments. Each joint resolution states whether the proposed amendment amends an existing section,

adds a new section or repeals an existing section. When an existing section is being amended, new material is shown by underscoring and language to be deleted is shown within brackets.

Following the text of each proposed amendment is a brief analysis of the amendment and summaries of arguments for and against the amendment. These arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

(SJR 1) 2001

CONSTITUTIONAL AMENDMENT 1

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO TO PHASE IN AN ADDITIONAL EXEMPTION FROM PROPERTY TAXATION OF TWO THOUSAND DOLLARS (\$2,000) OF PROPERTY OF HONORABLY DISCHARGED VETERANS WHO SERVED IN THE UNITED STATES ARMED FORCES DURING AN ARMED CONFLICT.

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

Section 1. It is proposed to amend Article 8, Section 5 of the constitution of New Mexico to read:

"The legislature shall exempt from taxation the property of each head of the family to the amount of two thousand dollars (\$2,000) [~~as follows: in 1989, the legislature shall exempt from taxation eight hundred dollars (\$800), in 1991, one thousand four hundred dollars (\$1,400) and beginning in 1993, two thousand dollars (\$2,000)].~~ The legislature shall also exempt from taxation the property, including the community or joint property of husband and wife, of every honorably discharged member of the armed forces of the United States who served in such armed forces during any period in which they were or are engaged in armed conflict under orders of the president of the United States, and the widow or widower of every such honorably discharged member of the armed forces of the United States, in the sum of two thousand dollars (\$2,000) in tax years prior to 2003; two thousand five hundred dollars (\$2,500) in 2003; three thousand dollars (\$3,000) in 2004; three thousand five hundred dollars (\$3,500) in 2005; and four thousand dollars (\$4,000) in 2006 and each subsequent year. Provided, that in every case where exemption is claimed on the ground of the claimant's having served with the armed forces of the United States as aforesaid, the burden of proving actual and bona fide ownership of such property upon which exemption is claimed, shall be upon the claimant."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 1

Brief Analysis

Constitutional Amendment 1 proposes to amend Section 5 of Article 8 to increase the current \$2,000 property tax exemption for honorably discharged veterans who served in the armed forces of the United States during a period in which the armed forces were engaged in armed conflict. The increase is phased in over four years, increasing by \$500 each year from 2003 to 2006, and then remaining at \$4,000. The exemption amount is subtracted from the assessed valuation of the property.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. The \$2,000 special exemption for veterans was established in 1921 as a way of recognizing the special contribution and sacrifice of those who served in the armed forces during World War I. The amount of the exemption has not been changed since that time. In contrast, the head of family exemption in this same section was established in 1914 at \$200 and has been increased to \$2,000. If the veteran exemption amount had been adjusted for inflation, it would now be \$19,997. The more modest increase proposed in this amendment is a small step toward restoring the value of the exemption.
2. The increase in the veterans' exemption will have a minimal impact on property tax revenues. According to the taxation and revenue department, approximately 81,000 veterans claim this exemption. When fully phased in, the additional exemption amount would result in a total tax reduction of \$4 million, which is less than one-half of one percent of total property tax liabilities.
3. This increase in the amount of the exemption for veterans who served in a time of armed conflict is a small token of appreciation for those who served the country at a critical time and deserve special recognition. This increased exemption may be especially helpful to veterans from World War II, Korea and Vietnam who are now or soon will be living on fixed incomes, since their property taxes may keep rising even though family income does not.

Arguments Against:

1. Tax relief measures should be targeted to individuals based on need. There is no evidence that veterans as a group have lower income, or a greater need for tax relief, than other groups of taxpayers. Is it good public policy for wealthy veterans with large, high-value homes to be relieved from contributing their share? If additional property tax relief is to be granted, it could be better targeted to low-income taxpayers who spend a disproportionate share of their income on property taxes.
2. An increase in the exemption amount will shrink the property tax base. A smaller tax base results in either lower tax revenue or higher tax rates. Property taxes are the basis for state, local and public school general obligation bonds for schools and other public infrastructure. In addition, local governments use the property tax for their operating budgets. Many counties and municipalities with limited populations

already find it difficult to provide essential services, and a decrease in the tax base will only exacerbate this problem, requiring either lower local government operating budgets with a concomitant reduction in service or an increase in tax rates.

3. To be meaningful as an expression of gratitude, the exemption should apply only to those veterans who have actually served in combat, not to anyone who happened to be employed by the military during a period in which the country was involved in an armed conflict.

4. Tax exemptions are poor policy. The tax burden is simply shifted to non-exempt taxpayers. By expanding this property tax exemption, the property tax bills of other New Mexico residents will increase. Everyone should pay their fair share. No special interest group should be favored at the expense of the rest of the citizenry.

5. This exemption may have made sense in the days when the military draft was in effect, but today there is a volunteer military. There is no longer any reason to treat persons who have served in the military any differently than others who have chosen hazardous public service occupations.

6. Rewarding our nation's veterans should be a cost shared by all taxpayers nationally, not just state taxpayers.

(SJR 10) 2001

CONSTITUTIONAL AMENDMENT 2

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 7, SECTION 1 OF THE CONSTITUTION OF NEW MEXICO TO REMOVE THE PROHIBITION AGAINST CERTAIN PERSONS EXERCISING THE RIGHT TO VOTE.

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

Section 1. It is proposed to amend Article 7, Section 1 of the constitution of New Mexico to read:

"Every citizen of the United States, who is over the age of [~~twenty-one~~] eighteen years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except [~~idiots, insane persons and~~] persons convicted of a felonious or infamous crime unless restored to political rights, shall be qualified to vote at all elections for public officers. The legislature may enact laws providing for absentee voting by qualified electors. All school elections shall be held at different times from other elections.

The legislature shall have the power to require the registration of the qualified electors as a requisite for voting, and shall regulate the manner, time and places of voting. The legislature shall enact such laws as will secure the secrecy of the ballot, the purity of elections and guard against the abuse of elective franchise. Not more than two members of the board of registration, and not more than two judges of election shall belong to the same political party at the time of their appointment."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 2

Brief Analysis

Constitutional Amendment 2 proposes to amend Section 1 of Article 7 to make two changes to qualifications for voters. It establishes 18 years, rather than 21 years, as the age of eligibility to vote in order to conform to the voting age established by the United States constitution. It also removes the language excluding idiots and insane persons from those qualified to vote.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. The right of citizens over the age of 18 to vote is established by the 26th Amendment to the United States constitution. New Mexico cannot prohibit a person who is over 18 from voting based upon age alone. Thus, the portion of this amendment changing the age of eligibility to vote will have no substantive effect; it merely brings the wording of the state constitution in line with federal requirements.
2. This amendment will remove wording that is archaic, offensive and meaningless from the list of people ineligible to vote. The terms "idiots" and "insane persons" may not have been considered offensive in 1912, but today they are an embarrassment.
3. "Idiots" and "insane persons" are overly general terms subject to varying interpretations. This creates confusion and uncertainty in the interpretation and application of the law and permits an election judge to deny a person his right to vote on a purely subjective basis.
4. The provision denying the right to vote to "idiots" and "insane persons" was written in a less enlightened period in history. Persons who may be considered to fit within the meaning of these terms may nevertheless be quite capable of choosing who they want to represent them. It is time to remove the stigma attached to those least capable of defending themselves and allow them to exercise their basic democratic rights.
5. These changes are an attempt to update the state constitution. Failure to make such changes reflects a disregard for the power and importance of a constitution as a living document.

Arguments Against:

1. Although it may seem reasonable to amend the age requirement in this section to conform with federal

requirements, it makes no sense to do this while retaining residency requirements for voting that are equally in conflict with the Federal Voting Rights Compliance Act and federal constitutional requirements. Deleting some ineffective language while retaining similarly ineffective language is illogical and confusing. This part-way approach should be rejected by the voters. If the amendment is rejected, the legislature will have the opportunity to draft a proper rewording of this section.

2. Removal of the archaic "idiots" and "insane persons" language without replacing it with terms that more accurately reflect contemporary understanding of mental health may be too sweeping a change. Is it wise to entirely remove the state's ability to pass legislation disqualifying persons from voting on grounds of mental unsuitability? Is it good public policy to insist that the presence of severe mental deficiency or dementia cannot affect the right to vote? Removal of this provision may invite abuse of the election process. Because third parties may "assist" voters with disabilities, there is a possibility of fraudulent influence on voting. Third parties could assist an incompetent person to vote in a manner that does not necessarily reflect that person's interests.

3. Section 1-4-24 NMSA 1978 provides that an individual who is determined to be legally insane shall have his voter registration canceled. Adoption of the proposed amendment would invalidate this statutory provision and permit persons who are legally insane to vote.

4. This section of the constitution should not be amended until it has been properly drafted, because it may become difficult to make future changes. Any amendment to this section that "restricts" the right to vote will be subject to the requirement in Article 19, Section 1 of the constitution requiring approval by three fourths of the members of each house of the legislature and three fourths of the electors voting in the referendum on the amendment. Once the "idiots" and "insane persons" language is removed, it will be difficult to reinstate any restriction based on mental competence.

5. Use of the terms "idiots" and "insane persons" is merely reflective of the time period in which that section of the constitution was crafted. It is not necessary to remove functional language from the constitution in order to be "politically correct".

(SJR 21) 2001

CONSTITUTIONAL AMENDMENT 3

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 6 OF THE CONSTITUTION OF NEW MEXICO TO ELIMINATE AN OUTDATED SECTION REGARDING DESIGNATION OF JUDICIAL DISTRICTS.

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

Section 1. It is proposed to amend Article 6 of the constitution of New Mexico by repealing Section 25.

Section 2. 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 which may be called for that purpose.

Section 25 of Article 6 of the constitution of New Mexico, which would be repealed by the proposed amendment, reads as follows:

"The state shall be divided into eight judicial districts, as follows:
First District. The counties of Santa Fe, Rio Arriba and San Juan.
Second District. The counties of Bernalillo, McKinley and Sandoval.
Third District. The counties of Dona Ana, Otero, Lincoln and Torrance.
Fourth District. The counties of San Miguel, Mora and Guadalupe.
Fifth District. The counties of Eddy, Chaves, Roosevelt and Curry.
Sixth District. The counties of Grant and Luna.
Seventh District. The counties of Socorro, Valencia and Sierra.
Eighth District. The counties of Taos, Colfax, Union and Quay.
In case of the creation of new counties the legislature shall have power to attach them to any contiguous district for judicial purposes."

Constitutional Amendment 3

Brief Analysis

Constitutional Amendment 3 proposes to repeal Section 25 of Article 6, which mandates eight judicial districts in the state and the counties to be included in each district. Currently there are 13 judicial districts in the state.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. Approval of this amendment will remove an internal inconsistency in the constitution. The language of this section conflicts with the language of Article 6, Section 12 that authorizes the number of judicial districts to be set by law. This amendment should have been part of the general revision of the judicial article of the constitution in 1988 but was overlooked.
2. This amendment would repeal the list of eight original judicial districts adopted in New Mexico's first constitution in 1910. The same constitution, in Article 6, Section 16, permitted the legislature to "rearrange the districts of the state [and] increase the number thereof..." and the legislature has done this. The number of districts was first increased to nine, then to 10 and then to 13, the current number of judicial districts. Because of these changes, this section is outdated and has no effect and should be repealed.

Arguments Against:

1. The state has managed just fine despite this technical conflict in the constitution. No litigation has ensued as a result of this outdated section. This section has remained for 90 years without creating problems. Why bother changing it now?
2. This is one more example of unnecessary piecemeal amending of the constitution. It costs the state thousands of dollars to put a proposed constitutional amendment on the ballot. Such unnecessary "clean-up" amendments are a waste of tax dollars.

SJR 22 (2001)

CONSTITUTIONAL AMENDMENT 4

A JOINT RESOLUTION

PROPOSING TO REPEAL ARTICLE 2, SECTION 22 OF THE CONSTITUTION OF NEW MEXICO, WHICH STATES THAT ALIENS CANNOT OWN LAND OR ANY INTEREST IN LAND IN THE STATE UNLESS OTHERWISE PROVIDED BY LAW.

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

Section 1. It is proposed to amend Article 2 of the constitution of New Mexico by repealing Section 22.

Section 2. 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 which may be called for that purpose.

Section 22 of Article 2 of the constitution of New Mexico, which would be repealed by the proposed amendment, reads as follows:

"Until otherwise provided by law no alien, ineligible to citizenship under the laws of the United States, or corporation, copartnership or association, a majority of the stock or interest in which is owned or held by such aliens, shall acquire title, leasehold or other interest in or to real estate in New Mexico."

Constitutional Amendment 4

Brief Analysis

Constitutional Amendment 4 proposes to repeal Section 22 of Article 2, which mandates that unless otherwise provided by law, aliens who are not eligible to become citizens, and corporations

majority-owned by such aliens, are prohibited from acquiring any interest in real property in New Mexico.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. This section is a remnant of anti-Asian discrimination from the first decades of the twentieth century. The phrase "alien ineligible to citizenship" meant Asians who, not being "free white persons or persons of African nativity or descent", could not become naturalized citizens pursuant to the federal immigration laws at the time. The original 1910 constitution of New Mexico guaranteed that there would be no distinction between resident aliens and citizens regarding the ownership of property, but this section was added by amendment in 1921. Although other states had such provisions at one time, most did away with them between 1940 and 1960. New Mexico is one of only two states that still retains this prohibition. Removal of this language is long overdue.
2. This section was rendered ineffective by passage of legislation in 1975 permitting aliens to take title to property (Section 45-2-111 NMSA 1978). As a consequence, repeal of the section will not change current law; it will merely serve to "clean-up" the language within the state's constitution.
3. This provision is a symbol of a time when people's opportunity and place in society was defined by race. It creates a negative image of New Mexico and can hurt efforts at economic development. The constitution should reflect the state as it is now and as it strives to be, not as it was 80 years ago.
4. This type of provision barring alien ownership of land is considered to be in violation of the United States constitution, and has no place in our state constitution.
5. Although the prohibition in this section is currently superseded by legislation, if the law allowing aliens to own property should be repealed by some future legislature, this section would again take effect. It is wise to permanently remove this prohibition.

Arguments Against:

1. This is an unnecessary amendment. Because of the "unless otherwise provided by law" language in this section, the legislature is free to overrule this provision with statutory language, and in fact did so in 1975. There is no point in repealing an ineffective prohibition.
2. This is another amendment that is simply cleaning up outdated language that has no current effect. It is a waste of tax dollars to continually do this kind of patchwork rewriting of the constitution. If the legislature wants to modernize the language of our constitution, it should authorize a constitutional revision commission.

3. Only persons *ineligible* to become citizens are barred from owning property under this section. In the unlikely event the legislature decided to repeal the existing statute permitting aliens to own property, this section would affect only those who are actually ineligible for citizenship.

4. Retaining this provision would allow future legislatures the flexibility to handle this issue as circumstances demand. Because of the concern about terrorism, certain aspects of free commerce may have to be restricted for national security purposes. It may be prudent in the future to enact statutes to enforce the prohibition on ownership of property by certain aliens who are seen as threats to the security of the state, and this provision would make it clear that such legislation is allowed under the constitution of New Mexico.

(HJR 5) 2001

CONSTITUTIONAL AMENDMENT 5

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO TO EXEMPT FROM PROPERTY TAXATION THE PRINCIPAL PLACE OF RESIDENCE OCCUPIED BY A VETERAN OF THE ARMED FORCES OF THE UNITED STATES OF AMERICA WHO HAS A ONE HUNDRED PERCENT PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITY.

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

Section 1. It is proposed to amend Article 8, Section 15 of the constitution of New Mexico to read:

"The legislature shall exempt from taxation the property, including the community or joint property of husband and wife, of every veteran of the armed forces of the United States who has been determined pursuant to federal law to have a one hundred percent permanent and total service-connected disability, if the veteran occupies the property as his principal place of residence [~~and has specially adapted the residence to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total disability~~]. The legislature shall also provide this exemption from taxation for property owned by the widow or widower of a veteran who was eligible for the exemption provided in this section, if the widow or widower continues to occupy the [~~specially adapted~~] property as his principal place of residence. The burden of proving eligibility for the exemption in this section is on the person claiming the exemption."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 5

Brief Analysis

Constitutional Amendment 5 proposes to amend Section 15 of Article 8 to make two changes to an existing provision for a property tax exemption for certain veterans. Currently, this section provides an exemption from property tax for the principal place of residence of a veteran determined to have a permanent and total service-connected disability if the residence has been specially adapted to the veteran's disability using a federal grant for specially adapted housing. The amendment removes the requirement that the property must have been specially adapted for the veteran's disability. It also further defines an eligible disability, adding a requirement that it be a "one hundred percent" permanent and total service-connected disability.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. The current exemption is limited to disabled veterans who have received a federal grant for adapting their residence to their disability. From a policy perspective, this limitation makes little sense. If the purpose of the exemption is to compensate these veterans in some way for the reduction in income resulting from their disability, then the exemption should apply regardless of whether the veteran has received a federal home modification grant. The proposed amendment would remove this artificial limitation.
2. This amendment will allow New Mexico to honor and recognize the sacrifice of all veterans who are permanently disabled as a result of their service to the country and to ease the financial burden that they have suffered as a result of their disabilities. It is appropriate that a person who has a permanent and total service-connected disability should not have to pay property taxes, since their earning potential is likely to be severely limited by the disability.
3. Because of the limited nature of the exemption and the modest number of eligible taxpayers, it will have little effect on the property tax base, rates or revenues. The taxation and revenue department estimates that the total tax impact of this exemption would be approximately \$1 million, which is less than one-half percent of statewide property tax obligations. The shift in tax burden to other taxpayers would be almost imperceptible.

Arguments Against:

1. It is not clear why disabled veterans, as a group, warrant special treatment over other totally and permanently disabled citizens of the state. The potential loss of income and additional costs of living apply to all citizens who are permanently and totally disabled. Why should the state distinguish between

those whose disabilities were a result of service-related activities and other citizens with similar disabilities incurred as police officers, firefighters or other public-service occupations?

2. It is poor policy to provide a property tax exemption to all permanently and totally disabled veterans and their surviving spouses, regardless of need. If the purpose of this additional exemption is to relieve the financial burden on those who are unable, because of their disability, to pay property taxes, then the exemption should be targeted to those with limited incomes.
3. By expanding this or any other property tax exemption, the property tax bills of other New Mexico residents will increase. Someone must pay for the local services and state and local infrastructure needs that are financed by the property tax. The more we narrow the base of those who pay, the more the burden is shifted to other business and residential taxpayers.
4. The property tax is based on the value and nature of the property, not on the personal characteristics of the owner. Creating an exemption for certain individuals is a departure from the underlying principle of property taxation and could set a precedent for other groups to seek a similar exemption.
5. Local governments and the state should not have to bear the expense of compensating an individual for a disability incurred in service to the nation as a whole. This is a national issue, not a state or local issue. If voters believe more compensation is due to that person and his or her spouse, they should ask their representatives in congress to provide it.
6. This amendment results in an exemption that may be broader in scope than is apparent at first reading. For example, if the qualified veteran dies, his widow who continues to live on the same property will never have to pay taxes on that property, regardless of her income or the value of the property, even if she remarries.

HJR 10 (2001)

CONSTITUTIONAL AMENDMENT 6

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 9, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO TO PERMIT THE STATE AND LOCAL GOVERNMENTS TO PROVIDE LAND, BUILDINGS OR INFRASTRUCTURE TO CREATE AFFORDABLE HOUSING.

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

Section 1. It is proposed to amend Article 9, Section 14 of the constitution of New Mexico to read:

"Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad except as provided in Subsections A through F of this section.

A. Nothing in this section [~~shall be construed to prohibit~~] prohibits the state or any county

or municipality from making provision for the care and maintenance of sick and indigent persons.

B. Nothing in this section [~~shall prohibit~~] prohibits the state from establishing a veterans' scholarship program for Vietnam conflict veterans who are post-secondary students at educational institutions under the exclusive control of the state by exempting such veterans from the payment of tuition. For the purposes of this subsection, a "Vietnam conflict veteran" is any person who has been honorably discharged from the armed forces of the United States, who was a resident of New Mexico at the original time of entry into the armed forces from New Mexico and who has been awarded a Vietnam campaign medal for service in the armed forces of this country in Vietnam during the period from August 5, 1964 to the official termination date of the Vietnam conflict as designated by executive order of the president of the United States.

C. The state may [~~also~~] establish by law a program of loans to students of the healing arts, as defined by law, for residents of the state who, in return for the payment of educational expenses, contract with the state to practice their profession for a period of years after graduation within areas of the state designated by law [~~and~~].

D. Nothing in this section [~~shall be construed to prohibit~~] prohibits the state or a county or municipality from creating new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses if this assistance is granted pursuant to general implementing legislation that is approved by a majority vote of those elected to each house of the legislature. The implementing legislation shall include adequate safeguards to protect public money or other resources used for the purposes authorized in this subsection. The implementing legislation shall further provide that:

(1) each specific county or municipal project providing assistance pursuant to this subsection need not be approved by the legislature but shall be approved by the county or municipality pursuant to procedures provided in the implementing legislation; and

(2) each specific state project providing assistance pursuant to this subsection shall be approved by law.

E. Nothing in this section prohibits the state, a county or a municipality from:

- (1) donating land owned by the state, county or municipality for the construction on it of affordable housing;

- (2) donating an existing building owned by the state, county or municipality for conversion or renovation into affordable housing; or

- (3) providing or paying the costs of infrastructure necessary to support affordable housing projects.

- F. The provisions of Subsection E of this section are not self-executing. Before the described assistance may be provided, enabling legislation shall be enacted by a majority vote of the members elected to each house of the legislature. This enabling legislation shall:

- (1) define "affordable housing";

-

- (2) establish eligibility criteria for the recipients of land, buildings and infrastructure;
- (3) contain provisions to ensure the successful completion of affordable housing projects supported by assistance authorized pursuant to Subsection E of this section;
- (4) require a county or municipality providing assistance pursuant to Subsection E of this section to give prior formal approval by ordinance for a specific affordable housing assistance grant and include in the ordinance the conditions of the grant; and
- (5) require prior approval by law of a specific affordable housing assistance grant by the state."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 6

Brief Analysis

Constitutional Amendment 6 proposes to amend Section 14 of Article 9, which is often referred to as the "anti-donation clause". Currently, that clause prohibits the state and its political subdivisions from lending or pledging credit or making donations to persons, associations or corporations. Several exceptions exist authorizing expenditures for the sick and indigent, certain scholarship programs and certain economic development initiatives. The proposed amendment would add another exception to allow the state, a county or a municipality to donate land for construction of affordable housing, donate an existing building for conversion into affordable housing or pay the costs of infrastructure for affordable housing. It also specifies requirements for the enabling legislation necessary to implement the amendment. The amendment also makes minor stylistic changes.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. The "anti-donation" clause of the constitution, which this proposal would amend, is intended to ensure that public funds are only spent for appropriate public purposes and not for the direct benefit of any one individual or group. Providing affordable housing for New Mexico residents is an appropriate public purpose. A number of studies exist that show there are a variety of positive social impacts to both individuals and to society stemming from homeownership. Among the societal impacts mentioned are neighborhood stability, increased political participation, increased community involvement and a greater

commitment to strengthening families.

2. This amendment is intended to permit state and local governments to address the lack of affordable housing in many parts of New Mexico. In Santa Fe, for example, due to dramatic increases in housing costs, public school teachers often cannot afford to rent, let alone buy, housing in the district in which they teach. Allowing the state, counties and municipalities the option of providing land, services or renovation funds to help alleviate the shortage of affordable housing is good public policy, especially given that each project would require approval by statute or ordinance before any public resources could be expended. In addition, conversion to affordable housing is a good use of public buildings that might remain abandoned and unsold.

3. There is a precedent for government subsidy of homeownership in the federal and state income tax deductions for mortgage interest. Because of the structure of the personal income tax system, these subsidies are more valuable to middle- and upper-income families who benefit from itemizing deductions. Many lower-income families, who would presumably be helped by an affordable housing program, cannot benefit from the tax subsidies. One study on the policy issues related to providing affordable housing concludes that subsidized affordable housing programs taken together with the homeownership tax subsidy provide a more evenhanded way to support home ownership.

4. The requirements in this amendment for implementing legislation are designed to safeguard the expenditure of public funds and ensure appropriate accountability by municipal, county and state elected officials. Citizens will have an opportunity to participate in the decisions through the legislative process of developing and adopting the implementing legislation, as well as in the public comment process associated with the passage of the required municipal or county ordinances.

Arguments Against:

1. The potential for abuse under this amendment is high. There is no requirement that the enabling legislation prohibit individuals from selling their ownership interest in affordable housing and using the profits for their own advantage. At the very least, the amount of any public subsidy paid for by the taxpayers should be recaptured upon private sale. Also, it is not clear who would actually own the title to land or buildings donated by the state or any county or municipality for the construction of or conversion into affordable housing. Would individual residents have title or would the projects be managed through a development corporation? Would the government donor have a future interest in the real property should it cease to be used for affordable housing?

2. The "anti-donation" clause has long served as an effective constraint on public spending to benefit special interests, but in recent years there have been incursions against this most important taxpayer protection. This amendment would open up to further change this long-standing tenet of the state constitution and would set a precedent for future donations by the state. Public money should not be used to fund private initiatives. Taxpayers should resist weakening of this section, even for worthy purposes.

3. With so many unmet needs in the state, it seems inappropriate to divert limited public resources that could be used for education, health care and other public purposes that benefit most of our citizens in order to provide affordable housing that will benefit only a few.

4. This amendment is vague with regard to the requirements for the enabling legislation. The voter is given no information on what will be considered "affordable housing", where the housing might be

constructed or who might qualify to own or inhabit the housing.

5. The state can ill afford to give away its money and land to private developers and individual citizens. More narrowly drawn provisions would be less prone to abuse. For example, allow school districts or local governments to buy houses and lease or sell them on affordable terms to qualified individuals, with adequate safeguards to prevent abuse.

HJR 16 (2001)

CONSTITUTIONAL AMENDMENT 7

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 20 OF THE CONSTITUTION OF NEW MEXICO TO DESIGNATE THE LAST FRIDAY IN MARCH AS A LEGAL HOLIDAY IN HONOR OF CESAR CHAVEZ.

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

Section 1. It is proposed to amend Article 20 of the constitution of New Mexico by adding a new Section 23 to read:

"The last Friday in March shall be designated a legal holiday in honor of Cesar Chavez."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 7

Brief Analysis

Constitutional Amendment 7 proposes to add a new Section 23 to Article 20 to designate the last Friday in March as a legal holiday in honor of Cesar Chavez.

Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

Arguments For:

1. Cesar Chavez dedicated himself to improving the working conditions and lives of millions of agricultural workers of Mexican heritage, a number of whom reside in New Mexico. He was the greatest

Hispanic civil rights leader of the twentieth century, and it is appropriate for New Mexicans to designate a day in his honor.

2. It is important to honor individuals such as Cesar Chavez who demonstrate the continuing power and value of our constitutional rights and freedoms. Through peaceable assembly and nonviolent protest, he helped to revolutionize the treatment of migrant farm workers. He is a good example for young people, demonstrating that it continues to be possible to work together to fight injustice in society.

3. Cesar Chavez spoke, organized and fought for the rights of millions of migrant laborers who had been left behind when industry was unionized earlier in the century. In an age of increasing globalization, and decreasing unionization, we need to honor and remember one who devoted his life and energy to the welfare of those who labor the hardest, for the least.

-
Arguments Against:

1. Putting this holiday in the constitution is inappropriate and sets a bad precedent. Other holidays have been designated by statute and that is the appropriate procedure to follow to create a new holiday.

2. Labor Day is already celebrated, and Cesar Chavez's contributions to the labor movement can be remembered and honored on that day.

3. Cesar Chavez was not a New Mexican and had very little connection to New Mexico. State holidays should be designated in honor of persons who have made significant contributions to New Mexico.

4. The holiday created by this amendment would be a continuing cost to New Mexico taxpayers. This would create another paid holiday for state employees. There are already nine paid holidays for public employees. If New Mexicans want to celebrate Cesar Chavez Day, one of the other paid holidays should be eliminated.

-
HJR 18 (2001)

CONSTITUTIONAL AMENDMENT 8

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 9, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO TO BROADEN ELIGIBILITY FOR VIETNAM VETERANS' SCHOLARSHIPS.

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

Section 1. It is proposed to amend Article 9, Section 14 of the constitution of New Mexico to read:

"Neither the state nor any county, school district or municipality, except as otherwise provided in

this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad; provided:

A. nothing in this section shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons;

B. nothing in this section shall prohibit the state from establishing a veterans' scholarship program for Vietnam conflict veterans who are post-secondary students at educational institutions under the exclusive control of the state by exempting such veterans from the payment of tuition. For the purposes of this subsection, a "Vietnam conflict veteran" is any person who has been honorably discharged from the armed forces of the United States, who was a resident of New Mexico at the original time of entry into the armed forces from New Mexico or who has lived in New Mexico for ten years or more and who has been awarded a Vietnam campaign medal for service in the armed forces of this country in Vietnam during the period from August 5, 1964 to the official termination date of the Vietnam conflict as designated by executive order of the president of the United States;

C. the state may also establish by law a program of loans to students of the healing arts, as defined by law, for residents of the state who, in return for the payment of educational expenses, contract with the state to practice their profession for a period of years after graduation within areas of the state designated by law; and

D. nothing in this section shall be construed to prohibit the state or a county or municipality from creating new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses if this assistance is granted pursuant to general implementing legislation that is approved by a majority vote of those elected to each house of the legislature. The implementing legislation shall include adequate safeguards to protect public money or other resources used for the purposes authorized in this subsection. The implementing legislation shall further provide that:

(1) each specific county or municipal project providing assistance pursuant to this subsection need not be approved by the legislature but shall be approved by the county or municipality pursuant to procedures provided in the implementing legislation; and

(2) each specific state project providing assistance pursuant to this subsection shall be approved by law."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 8

Brief Analysis

Constitutional Amendment 8 proposes to amend Section 14 of Article 9 (the "anti-donation clause") to change the requirements for eligibility for the Vietnam veterans' scholarship program that is currently authorized by this section. Under the current provision, one of the requirements of eligibility is that a veteran must have been a resident of New Mexico at the original time of entry into the armed forces. The amendment would alter this residency requirement to also include veterans who have lived

in New Mexico for 10 years or more.

-
Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

-
Arguments For:

1. Under the current provision, some veterans who served their country and have resided in this state for a long time are ineligible for a higher education tuition scholarship simply because they were not residents in New Mexico at the time they entered the armed forces. If the goal of this scholarship program provision is to reward and acknowledge residents for their service in the Vietnam conflict, then expanding eligibility for these scholarships for long-time residents is a good way to achieve this.
2. Vietnam veterans served all citizens, not just those of their home states. Being born in New Mexico, or living here at the time of enlistment, is not a sufficient test of whether a veteran is entitled to the benefit of taxpayers' money. In an increasingly mobile society, it is fitting to recognize that people who settle in a different state and make it their home should be accepted and given the full benefits of citizenship of that state.
3. Expanding eligibility for these scholarships is a nice gesture and would not have a large fiscal impact. Only persons in their mid-40s and older would qualify, and not many people of that age are students.

-
Arguments Against:

-
1. The future costs associated with this amendment are impossible to estimate. It would open up eligibility for tuition scholarships to an unknown number of veterans who have moved to New Mexico since their military service. In addition, the amendment does not specify that an eligible veteran must be a current resident of this state, only that he must have resided in New Mexico for a period of 10 years. It is conceivable that a non-resident could apply for and be eligible for this scholarship based upon his past 10-year residency.
 2. The imposition of a 10-year residency requirement for Vietnam veterans to receive a state benefit almost certainly violates the Equal Protection Clause of the Fourteenth Amendment of the United States constitution. The right of persons to move from state to state is protected by the Equal Protection Clause and this right of travel implies the right to be treated equally with other citizens of the state. A state cannot constitutionally penalize or deter a person from moving there. Legislative classification based wholly upon a time element when the time selected has no reasonable relation to the object of the legislation has been held by the United States supreme court to be unreasonable and arbitrary.
 3. This amendment smacks of special interest legislation designed to benefit a few individuals. This amendment is another giveaway to a special class of citizens. They may be deserving, but what class of citizens is undeserving? Why should Vietnam veterans receive a free education courtesy of the state's

taxpayers when it is not available to other residents or even to other combat veterans?

4. The 10-year residency requirement seems arbitrary. It is difficult to imagine that the veteran who has lived here for nine years is any less deserving of free tuition than one who has lived here only one year longer.

-

HJR 27 (2001)

CONSTITUTIONAL AMENDMENT 9

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 5, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO TO CHANGE THE NAME OF THE STATE HIGHWAY COMMISSION TO THE STATE TRANSPORTATION COMMISSION.

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

Section 1. It is proposed to amend Article 5, Section 14 of the constitution of New Mexico to read:

"There is created a "state [~~highway~~] transportation commission". The members of the state [~~highway~~] transportation commission shall be appointed, shall have such power and shall perform such duties as may be provided by law. Notwithstanding the provisions of Article 5, Section 5 of the constitution of New Mexico, state [~~highway~~] transportation commissioners shall only be removed as provided by law."

Section 2. 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 which may be called for that purpose.

Constitutional Amendment 9

-
Brief Analysis

-
Constitutional Amendment 9 proposes to amend Section 14 of Article 5 to change the name of the state highway commission to the state transportation commission.

-
Disclaimer

The following arguments do not necessarily reflect any legislative deliberations undertaken at the time of the passage of the proposed amendments. They represent the suggestions of the legislative council service staff of possible arguments in support of and in opposition to the proposed amendments. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against any particular amendment, and the number of arguments does not indicate the weight that should be ascribed to each.

-
Arguments For:

1. "State transportation commission" is more inclusive than the current "state highway commission" and recognizes that transportation issues are broader than motor vehicle use of highways.
2. The proposed name change looks ahead to the day when the commission may have a more comprehensive mission than that of funding highway construction and maintenance.
3. The fiscal impact of accommodating the name change will be minimal.

-
Arguments Against:

1. It is unnecessary and a waste of taxpayer money to make this change as it would have no actual impact on the work of the commission. Constant constitutional tinkering with the names of government commissions, boards and departments is unnecessary, confusing and costly.
2. An identical proposal was presented to the voters in 1994 and was soundly defeated. It is a waste of state funds to propose this unnecessary amendment again. The voters should express their displeasure by defeating this amendment.
3. Because the commission is not charged with overseeing railroads, bus lines, airlines, bicycle paths or any mode of transportation other than highways, it makes no sense to change the name of the state highway commission to the state transportation commission.