

1 SENATE JOINT RESOLUTION 9

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 A JOINT RESOLUTION

11 PROPOSING TO REPEAL AND REPLACE ARTICLE 9, SECTION 14 OF THE  
12 CONSTITUTION OF NEW MEXICO, COMMONLY KNOWN AS THE ANTI-DONATION  
13 CLAUSE, TO ALLOW THE STATE, VIA IMPLEMENTING LEGISLATION, TO  
14 PROVIDE ASSISTANCE TO PRIVATE ORGANIZATIONS, INCLUDING INDIAN  
15 NATIONS, TRIBES AND PUEBLOS, FOR THE PURPOSES OF DISASTER  
16 RELIEF, MAKING PAYMENTS TO A CLASS OF INDIVIDUALS AS PART OF A  
17 PROGRAM WITH ELIGIBILITY CRITERIA AND OBLIGATIONS, PROMOTING  
18 COMMUNITY WELL-BEING AND ESTABLISHING SCHOLARSHIP AND LOAN  
19 PROGRAMS FOR POST-SECONDARY STUDENTS, WHILE PROVIDING NEW  
20 REQUIREMENTS FOR IMPLEMENTING LEGISLATION FOR PREVIOUSLY  
21 EXISTING EXCEPTIONS TO THE ANTI-DONATION CLAUSE, AND TO REPEAL  
22 ARTICLE 4, SECTION 31 OF THE CONSTITUTION OF NEW MEXICO, WHICH  
23 PROHIBITS CERTAIN APPROPRIATIONS FOR CHARITABLE, EDUCATIONAL OR  
24 OTHER BENEVOLENT PURPOSES.

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

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

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

10 (1) making provisions for the care and  
11 maintenance of sick or indigent persons;

12 (2) providing disaster relief to individuals,  
13 businesses and charitable organizations;

14 (3) making payments to a class of individuals  
15 as part of a program that identifies the eligibility criteria  
16 for receipt of funds and the obligations, if any, of the class  
17 of individuals receiving the payments;

18 (4) promoting community well-being through  
19 grants to charitable organizations;

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

23 (6) creating new job opportunities:

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

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1 businesses; or

2 (b) through economic development and job  
3 creation programs;

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

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

9 (a) financing or infrastructure  
10 necessary for affordable housing;

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

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

15 B. The exceptions described in Paragraphs (2)  
16 through (8) of Subsection A of this section are not self-  
17 executing. Before the assistance may be provided, implementing  
18 legislation shall be enacted by a majority vote of the members  
19 elected to each house of the legislature or of the governing  
20 body of a political subdivision of the state. The implementing  
21 legislation shall:

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

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

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

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

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

11 (6) when promoting community well-being:  
12 (a) define "community well-being"; and  
13 (b) set ascertainable benchmarks to  
14 evaluate achievement of community well-being;

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

18 (a) each project by the state shall be  
19 approved by law or authorized by a legislatively approved  
20 council designated to approve such projects and whose  
21 membership includes members of the public and representatives  
22 of the executive and legislative branches of government;

23 (b) each project by a political  
24 subdivision of the state need not be approved by the  
25 legislature but shall be approved by the governing body of the

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1 political subdivision pursuant to procedures provided in the  
2 implementing state legislation; and

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

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

8 (b) define "affordable housing";

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

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

17 (e) require a county or municipality  
18 providing housing assistance to give prior formal approval by  
19 ordinance for a specific affordable housing assistance grant  
20 and include in the ordinance the conditions of the grant.

21 C. Notwithstanding the provisions of Subsection B  
22 of this section, implementing legislation in effect on November  
23 1, 2024 that comply with the previous provisions of Article 9,  
24 Section 14 of the constitution of New Mexico that are repealed  
25 by this 2023 amendment shall be deemed to comply with the

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1 provisions of this section until June 30, 2026, by which date  
2 the legislature shall conform that implementing legislation  
3 with the provisions of this section.

4 D. As used in this section:

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

9 (2) "charitable organization" means a  
10 federally recognized, tax-exempt organization that is organized  
11 for charitable, literary, educational or other eleemosynary  
12 purpose;

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

16 (4) "private organization" means a person,  
17 association, public or private corporation, charitable  
18 organization, community or private enterprise that is not under  
19 the absolute control of the state and includes a federally  
20 recognized Indian nation, tribe or pueblo located wholly or  
21 partially in New Mexico; and

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

25 SECTION 2. It is proposed to amend Article 4 of the

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1 constitution of New Mexico by repealing Section 31.

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