

Opinion No. 43-4368

August 19, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. H. B. Sellars, Chief Tax Commissioner, State Tax Commission, Santa Fe, New Mexico

We have your request for an opinion of August 19, 1943, concerning whether or not a city can lawfully make donations to the Secretary of the Chamber of Commerce and include such donations or contributions in the city budget.

In view of Article 9, Section 14 of our Constitution, it is my opinion that this cannot be done.

Article 9, Section 14 provides as follows:

"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, nothing herein shall be construed to prohibit the state or any county municipality from making provision for the care and maintenance of sick and indigent persons.**"

Also see the case of Hutcheson v. Atherton, 44 N.M. 144, 99 P. 2d 462.

In the case of Harrington v. Atteberry, 21 N.M. 50, 153 P. 1041, the Court held that an act of the Legislature appropriating money or designating the county to appropriate money to a private corporation engaged in conducting a County Fair for the purpose of paying premiums on agricultural and horticultural and other exhibits, which is the duty assumed by such a corporation, is in conflict with this section.

Hoping that the above is of some benefit to you, I remain

By HARRY L. BIGBEE,

Assistant Attorney General