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ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING PUBLIC WELFARE IN THE STATE OF MONTANA

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PREFACE

This bulletin is one of a series presenting State constitutional provisions affecting public welfare, prepared to supplement the State by State digests of public welfare laws so as to provide in abstract form the basis for the public welfare services of the several States.

The provisions quoted are those concerned directly with public welfare administration and such others as may substantially affect a public welfare program, even though only indirectly related. It would be impossible to consider within the limits of this study every remotely connected constitutional provision. The indirectly related provisions included, therefore, have been restricted to those concerning finance, legislation, and the methods of constitutional amendment.

An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

It is hoped that these abstracts will be useful to those interested in public welfare questions in indicating how State and local public welfare administration may be affected by constitutional powers and limitations.

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Montana

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING PUBLIC WELFARE IN MONTANA[1]

I. Incidence of Responsibility for Welfare Program

A. Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, soldiers home, and such other institutions as the public good may require, shall be established and supported by the state in such a manner as may be prescribed by law.[2]

B. The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.[3]

C. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.[4]

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[1] Constitution (1889), as published by the State Publishing Company, Helena, Montana, with all amendments to July 9, 1937.

Art. III, Sec. 29 of the Constitution provides that "The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise."

The Supreme Court in an opinion stated that "except for the limitations placed upon the power of the Legislature, * * *, by the Constitution of the United States and, * * *, by the Constitution of the state, the will of the legislative body may be freely exercised in all legislative matters. * * * The state Constitution is not a grant of, but a limitation upon, power exercised by the several departments of state government." State ex rel. Dufresne vs. Leslie, 100 Mont. 449, 50 P. (2d) 959 (1935).

[2] Constitution, Art. X, Sec. 1.

[3] Constitution, Art. X, Sec. 5.

The fact that this section makes it the duty of the counties to provide for the support and care of unfortunates was held not to prevent the Legislature from likewise making provision for the State to assist in the support of the poor as the Legislature may exercise all legislative power not prohibited by the Constitution. Mills vs. State Board of Equalization, 97 Mont. 13, 33 P. (2d) 563 (1934); State ex rel. Normile vs. Cooney, 100 Mont. 391, 47 P. (2d) 637 (1935).

[4] Constitution, Art. V, Sec. 35.

II. Financial Powers and Limitations

A. Taxation and Assessments[5]

(1) State

(a) The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that especially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.[6]

(b) Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.[7]

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[5]Art. XII of the Constitution of this State relates principally to the powers of taxation. The pertinent provisions of this article are included herein under par. (a) above, to sub-section B, p. 5 inclusive, and in pars. (2) and (3), p. 8. The restrictions contained in Art. XII were held not to apply to license taxes. State vs. Camp Sing, 18 Mont. 128, 44 P. 516 (1896).

In a later case the court in affirming the above holding stated that in the previous case it had "reviewed at great length the several provisions of Article XII, explained their purpose, and reached the conclusion, in effect, that all the provisions imposed by that article are restrictions with reference to property taxation." The court further stated that the correctness of the decision reached in the foregoing case was beyond question. Hilger vs. Moore, 56 Mont. 146, 182 P. 477 (1919).

[6]Constitution, Art. XII, Sec. 1.

It was held that the two methods of taxation mentioned in this section were not exclusive and that the Legislature had the power to adopt other methods of taxation which were not prohibited by some other section of the Constitution. State vs. Driscoll, 101 Mont. 348, 54 P. (2d) 571 (1936).

The first sentence of this section was held to deal exclusively with property taxation. Northwestern Mutual Life Insurance Company vs. Lewis and Clark County, 28 Mont. 484, 72 P. 982 (1903); Hilger vs. Moore, 56 Mont. 146, 182 P. 477 (1919).

A statute which provided for the division of real and personal property into seven groups and directed the taxation of each group at a different percentage of the assessed value was held valid. The court stated, (1) that this section must be construed together with Art. XII, Sec. 11 (see p. 3, par. (c)); (2) that this section required only that the assessment of property (that is the rule for ascertaining values), must be uniform; (3) that the Montana rule was not that taxes must be uniform throughout the taxing district, but only that taxes must be uniform upon the same class of property within the taxing district; (4) that such classification for purposes of taxation would not violate the Fourteenth Amendment to the Federal Constitution so long as it was practical and not obviously arbitrary. Hilger vs. Moore, 56 Mont. 146, 182 P. 477 (1919).

A graduated income tax was held to be an "excise" tax rather than a "property" tax and therefore not subject to the restrictions of this section. O'Connell vs. State Board of Equalization, 95 Mont. 91, 25 P. (2d) 114 (1933). Mills vs. State Board of Equalization, 97 Mont. 13, 33 P. (2d) 563 (1934).

An inheritance tax was held to be not a property tax but a tax on the privilege of acquiring property by inheritance. State ex rel. Davis vs. State Board of Equalization of Montana, 64 P. (2d) 1057 (1937); Gelsthorpe vs. Furnell, 20 Mont. 299, 51 P. 267 (1897).

See footnote 5, above.

[7]Constitution, Art. XII, Sec. 11.

This section was held to relate to property taxes only and not to inheritance taxes. State ex rel. Rankin vs. District Court, 70 Mont. 322, 225 P. 804 (1924).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(c) The rate of taxation on real and personal property for state purposes, except as hereinafter provided, shall never exceed two and one-half mills on each dollar of valuation; and whenever the taxable property of the state shall amount to six hundred million dollars ($600,000,000.00) the rate shall never exceed two (2) mills on each dollar of valuation, unless the proposition to increase such rate, specifying the rate proposed and the time during which the rate shall be levied shall have been submitted to the people at the general election and shall have received a majority of all votes cast for and against it at such election; Provided, That in addition to the levy for state purposes above provided for, a special levy in addition may be made on livestock for the purpose of paying bounties on wild animals and for stock inspection, protection and indemnity purposes, as may be prescribed by law, and such special levy shall be made and levied annually in amount not exceeding four mills on the dollar by the state board of equalization, as may be provided by law.[8]

(d) The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed.[9]

The classification referred to in this section was held to be the classification of property. It was further stated that the rule in Montana requires taxation to be uniform only upon *the same class of property* throughout the taxing district, and that such a classification would not violate the Fourteenth Amendment to the Federal Constitution if it was practical and not obviously arbitrary. Hilger vs. Moore, 56 Mont. 146, 182 P. 477 (1919).

See p. 2, par. (a), and footnote 5.

[8] Constitution, Art. XII, Sec. 9.

A graduated income tax was held not to be a property tax and therefore not subject to this section. O'Connell vs. State Board of Equalization, 95 Mont. 91, 25 P. (2d) 114 (1933); affirmed, Mills vs. State Board of Equalization, 97 Mont. 13, 33 P. (2d) 563 (1934).

See p. 2, footnote 5.

[9] Constitution, Art. XII, Sec. 17.

This section was held to have no effect upon the classification of property for taxation purposes for the reason that the definition of property therein contained was "intended as a limitation upon the power of the Legislature to extend, by indirection, the exemptions authorized or commanded by section 2 [see p. 5, par. B]." Hilger vs. Moore, 56 Mont. 146, 182 P. 477, 481 (1919); O'Connell vs. State Board of Equalization, 95 Mont. 91, 25 P. (2d) 114, 118 (1933).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(e) All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.[10]

(f) The legislative assembly may levy and collect taxes upon incomes of persons, firms and corporations for the purpose of replacing property taxes. These income taxes may be graduated and progressive and shall be distributed to the public schools and to the State Government.[11]

(g) No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of state taxes.[12]

(h) The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.[13]

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[10] Constitution, Art. XII, Sec. 3.

[11] Constitution, Art. XII, Sec. 1 (a), adopted 1934.
This amendment was proposed at the same session of the Legislature which enacted a graduated income tax statute. The court held the income tax statute valid prior to the adoption of this section, and stated in its opinion that the fact that this amendment had been proposed did not affect the decision. O'Connell vs. State Board of Equalization, 95 Mont. 91, 25 P. (2d) 114 (1933).

[12] Constitution, Art. XII, Sec. 6.

[13] Constitution, Art. XII, Sec. 7.
This section was held to prevent the granting of corporate charters containing provisions exempting the corporations from taxation, either for the term of their existence or for a period of time. Mills vs. State Board of Equalization, 97 Mont. 13, 33 P. (2d) 563 (1934).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units

(a) The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law invest in the corporate authorities thereof powers to assess and collect taxes for such purposes.[14]

(b) Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.[15]

B. Exemptions

The property of the United States, the state, counties, cities, towns, school districts, municipal corporations and public libraries shall be exempt from taxation; and such other property as may be used exclusively for the agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, institutions of purely public charity and evidences of debt secured by mortgages of record upon real or personal property in the state of Montana, may be exempt from taxation.[16]

C. Borrowing and Use of Credit

(1) State

(a) Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or a joint owner with

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[14]Constitution, Art. XII, Sec. 4.
See p. 2, footnote 5.

[15]Constitution, Art. XII, Sec. 5.
See p. 2, par. (b).

[16]Constitution, Art. XII, Sec. 2.
State and county bonds in private hands were held subject to taxation. The court held (1) that the property of the "United States, the state, counties, cities, towns, school districts, municipal corporations and public libraries" must be exempt from taxation; (2) that the other property mentioned in this section could be exempted by the Legislature in its discretion; and (3) that the Legislature could not exempt any class of property not mentioned in this section. Cruse vs. Fischl, 55 Mont. 258, 175 P. 878 (1918); Town of Cascade vs. Cascade County, 75 Mont. 304, 243 P. 806 (1926).
See p. 2, footnote 5.

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(1) State—Continued

any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.[17]

(b) The legislative assembly shall not in any manner create any debt except by law which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars ($100,000) except in case of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.[18]

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[17] Constitution, Art. XIII, Sec. 1.

A statute authorizing counties to borrow for the purpose of furnishing seed grain to needy farmers was held to be a form of poor relief and not to violate this section. It was further held that this section must be construed together with Art. X, Sec. 5 (see p. 1, par. B) and that when a donation or loan was a measure of poor relief there was no violation of this section. In its opinion the court stated that "the origin and purpose of the restrictions in Section 1, Article XIII, are well known. They arose in a time when the evils of public aid to railroads were notorious: they were intended to prevent the extension of such aid to either individuals or corporations for the purpose of fostering business enterprises, whether of a semipublic or private nature; they had and were designed to have no reference whatever to suitable measures, elsewhere commanded, for the relief of the poor." The court further held that poor relief measures were not confined to paupers in poorhouses, but included reasonable measures which might prevent needy persons from *becoming* public charges. State ex rel. Cryderman vs. Wienrich, 54 Mont. 390, 170 P. 942 (1918).

Statutes authorizing the construction of school buildings, tuberculosis sanatoria, water works, and similar projects to be financed by revenue bonds were held not to violate this section since they were all public projects. Barbour vs. State Board of Education, 92 Mont. 321, 13 P. (2d) 225 (1932); State ex rel. Veeder vs. State Board of Education, 97 Mont. 121, 33 P. (2d) 516 (1934); State ex rel. Hawkins vs. State Board of Examiners, 97 Mont. 441, 35 P. (2d) 116 (1934); State ex rel. Normile vs. Cooney, 100 Mont. 391, 47 P. (2d) 637 (1935). See footnote 18, below.

[18] Constitution, Art. XIII, Sec. 2.

Warrants or treasury notes issued in anticipation of taxes already levied, but not yet collected, were held not to constitute a debt within the meaning of this section. State ex rel. Rankin vs. State Board of Examiners, 59 Mont. 557, 197 P. 988 (1921).

Bonds issued to fund outstanding warrants were held not to constitute debts within the meaning of this section, but to be merely new evidences of existing obligations. State ex rel. Tipton vs. Erickson, 93 Mont. 466, 19 P. (2d) 227 (1933).

Bonds issued to finance the erection of school buildings, tuberculosis sanatoria, water works, and similar projects, payable out of income other than taxation and not being obligations of the State, were held not to constitute debts within the

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(1) State—Continued

(c) All moneys borrowed by or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan.[19]

(d) The state shall not assume the debt, or any part thereof, of any county, city, town or municipal corporation.[20]

(e) The legislative assembly shall have no power to pass any law authorizing the state, or any county in the state, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.[21]

(2) Counties

No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars ($10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law.[22]

(3) Other Local Units

No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three (3) per

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meaning of this section. The court held that this section contemplated only those obligations which would necessitate taxation for their eventual payment. Barbour vs. State Board of Education, 92 Mont. 321, 13 P. (2d) 225 (1932); State ex rel. Veeder vs. State Board of Education, 97 Mont. 121, 33 P. (2d) 516 (1934); State ex rel. Blume vs. State Board of Education of Montana, 97 Mont. 371, 34 P. (2d) 515; State ex rel. Hawkins vs. State Board of Examiners, 97 Mont. 441, 35 P. (2d) 116 (1934); State ex rel. Normile vs. Cooney, 100 Mont. 391, 47 P. (2d) 637 (1935).

[19] Constitution, Art. XIII, Sec. 3.

[20] Constitution, Art. XIII, Sec. 4.

[21] Constitution, Art. V, Sec. 38.

[22] Constitution, Art. XIII, Sec. 5.
This section was held to place a limit upon indebtedness of 5 percent of the full cash value of the taxable property in a county, rather than 5 percent of the assessed value, since the basis of taxation at the time the Constitution was adopted was the full cash value. However the Legislature was held to have the power to place a limitation upon county indebtedness of less than that set out in this section. State ex rel. Henderson vs. Dawson County, 87 Mont. 122, 286 P. 125 (1930).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(3) Other Local Units—Continued

centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by or on behalf of such city, town, township or school district shall be void; Provided, however, That the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.[23]

D. Other Income

The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government, known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes or where no other, special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.[24]

E. Appropriations and Expenditures

(1) No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.[25]

(2) All taxes levied for state purposes shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.[26]

(3) No appropriation shall be made nor any expenditures authorized by the legislative assembly whereby the expenditures of the

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[23]Constitution, Art. XIII, Sec. 6.

[24]Constitution, Art. XI, Sec. 2.

[25]Constitution, Art. V, Sec. 34.

[26]Constitution, Art. XII, Sec. 10.
See p. 2, footnote 5.

II. Financial Powers and Limitations—Continued

E. Appropriations and Expenditures—Continued

state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislative assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, [see p. 3, par. (c)] to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war. No appropriation of public moneys shall be made for a longer term than two years.[27]

(4) Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly, or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.[28]

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

(1) The legislative assembly (except the first) shall meet at the seat of government at twelve o'clock noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the governor.[29] * * *

(2) * * * No session of the legislative assembly, * * * shall exceed sixty days.[30] * * *

B. Special Sessions of Legislature

He [the Governor] may on extraordinary occasions convene the legislative assembly by proclamation, stating the purposes for which it is convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the governor, but may provide for the expenses of

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[27] Constitution, Art. XII, Sec. 12.
See p. 2, footnote 5.

[28] Constitution, Art. XI, Sec. 8.

[29] Constitution, Art. V, Sec. 6.

[30] Constitution, Art. V, Sec. 5.

III. Provisions Affecting Legislation—Continued

B. Special Sessions of Legislature—Continued

the session and other matters incidental thereto. He may also by proclamation convene the senate in extraordinary session for the transaction of executive business.[31]

C. Powers of Initiative and Referendum

The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, [see p. 11, par. (4)] of this constitution, independent of the legislative assembly; and also reserve power, at their own option, to approve or reject at the polls, any act of the legislative assembly, except as to laws necessary for the immediate preservation of the public peace, health, or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in article V, section 26, of this constitution. The first power reserved by the people is the initiative and eight per cent. of the legal voters of the state shall be required to propose any measure by petition; Provided, That two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight per cent. of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state, not less than four months before the election at which they are to be voted upon.

The second power is the referendum, and it may be ordered either by petition signed by five per cent. of the legal voters of the state, provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent. of the legal voters in such county, or, by the legislative assembly as other bills are enacted.

Referendum petitions shall be filed with the secretary of state, not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to

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[31] Constitution, Art. VII, Sec. 11.
The Legislature was held to have power to enact at a special session legislation incidental, or germane, to the subjects expressed in the Governor's proclamation, since the proclamation must be construed liberally. Pierson vs. Hendricksen, 98 Mont. 244, 38 P. (2d) 991 (1934).

III. Provisions Affecting Legislation—Continued

C. Powers of Initiative and Referendum—Continued

measures referred to the people by the legislative assembly or by initiative referendum petitions.[32] * * *

D. Legislative Enactment

(1) No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.[33]

(2) No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.[34]

(3) No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.[35]

(4) The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: * * * for the assessment or collection of taxes; * * * exempting property

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[32]Constitution, Art. V, Sec. 1.
An act created employment by providing that the State Board of Education might engage in certain construction projects, to be financed with the aid of the Federal Government. The act was held valid as an emergency measure and not subject to the referendum. The court took judicial notice of the fact that the problem of unemployment was so acute at the time of the passage of the act that emergency action was justified. In the opinion it was stated that the question of whether a law was "necessary for the immediate preservation of the public peace, health, or safety," was one of fact to be determined by the court. State ex rel. Veeder vs. State Board of Education, 97 Mont. 121, 33 P. (2d) 516 (1934).

[33]Constitution, Art. V, Sec. 21.

[34]Constitution, Art. V, Sec. 22.

[35]Constitution, Art. V, Sec. 23.
Statutes which related to the construction and operation of water conservation projects were held not to violate this section since they all related to the one subject of water conservation. The court stated: "Where all of the different parts of a statute have a natural connection and relate directly or indirectly to one legitimate subject of legislation, the act is not invalid as containing more than one subject. * * * The purpose of section 23, article 5 * * * is: First, to prevent hodge-podge or 'log-rolling' legislation; second, to prevent surprise or fraud upon the Legislature by means of provisions in bills of which the titles give no intimation, and which might therefore be overlooked and carelessly and unintentionally adopted; and, third, to fairly apprise the people, through such publication of legislative proceedings as is usually made, of the subjects of legislation that are being considered, in order that they may have opportunity of being heard thereon, by petition or otherwise, if they shall so desire." State ex rel. Normile vs. Cooney, 100 Mont. 391, 47 P. (2d) 637, 644 (1935).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

from taxation; * * *. In all other cases where a general law can be made applicable, no special law shall be enacted.[36]

(5) All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.[37]

(6) The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.[38]

(7) Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the secretary of state.[39]

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

Amendments to this constitution may be proposed in either house of the legislative assembly, and if the same shall be voted for by

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[36] Constitution, Art. V, Sec. 26.

[37] Constitution, Art. V, Sec. 32.

[38] Constitution, Art. V, Sec. 33

[39] Constitution, Art. VII, Sec. 12.
Art. VII, Sec. 13 of the Constitution provides that the Governor shall have power to veto any item or items of an appropriation bill.

IV. Constitutional Amendment or Revision—Continued

A. By Proposal of Legislature or People—Continued

two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately; Provided, however, That not more than three amendments to this constitution shall be submitted at the same election.[40]

B. By Constitutional Convention

The legislative assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. * * * Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at any election appointed by the convention for that purpose, not less than two or more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.[41]

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[40] Constitution, Art. XIX, Sec. 9.

[41] Constitution, Art. XIX, Sec. 8.

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