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

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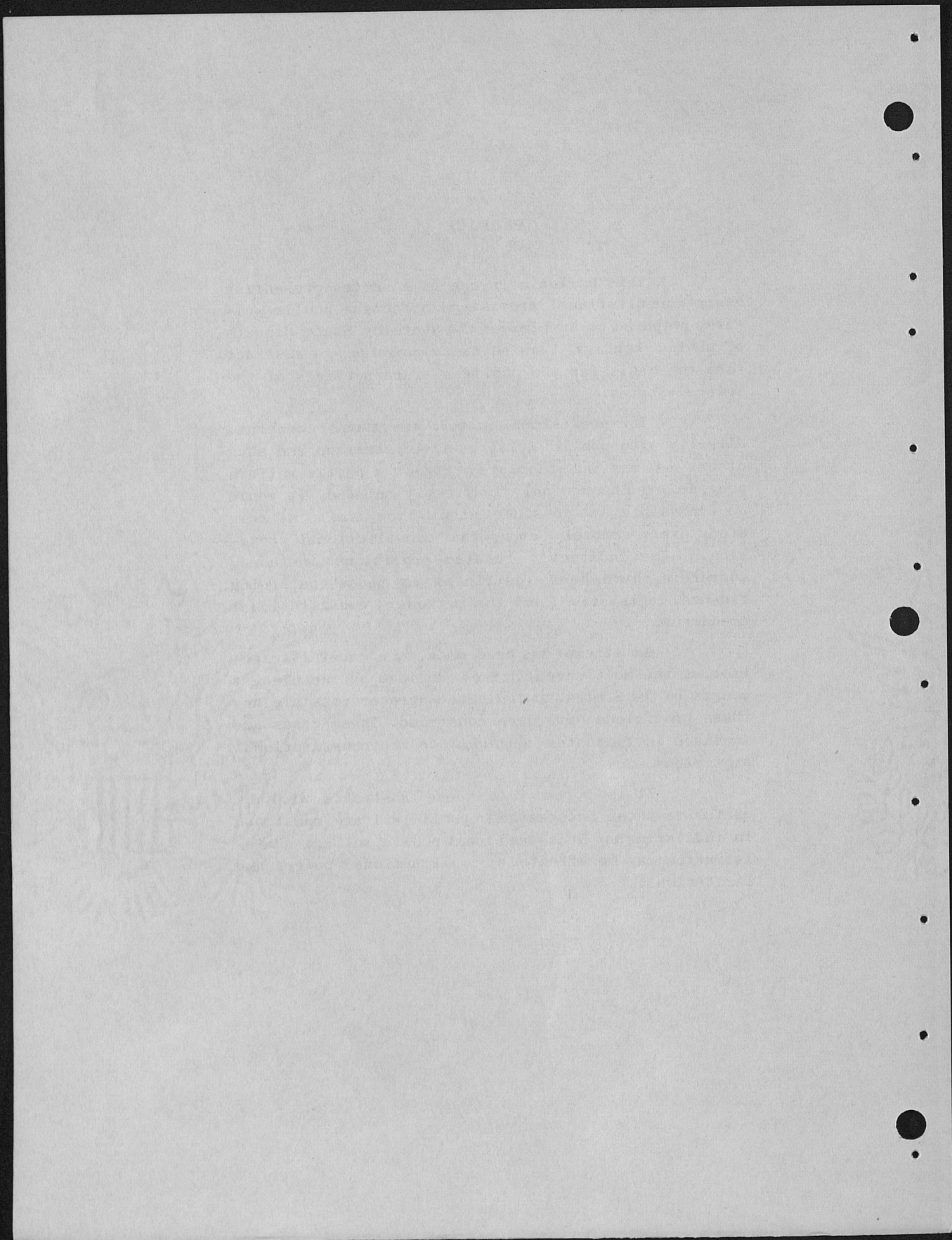
PREFACE

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.

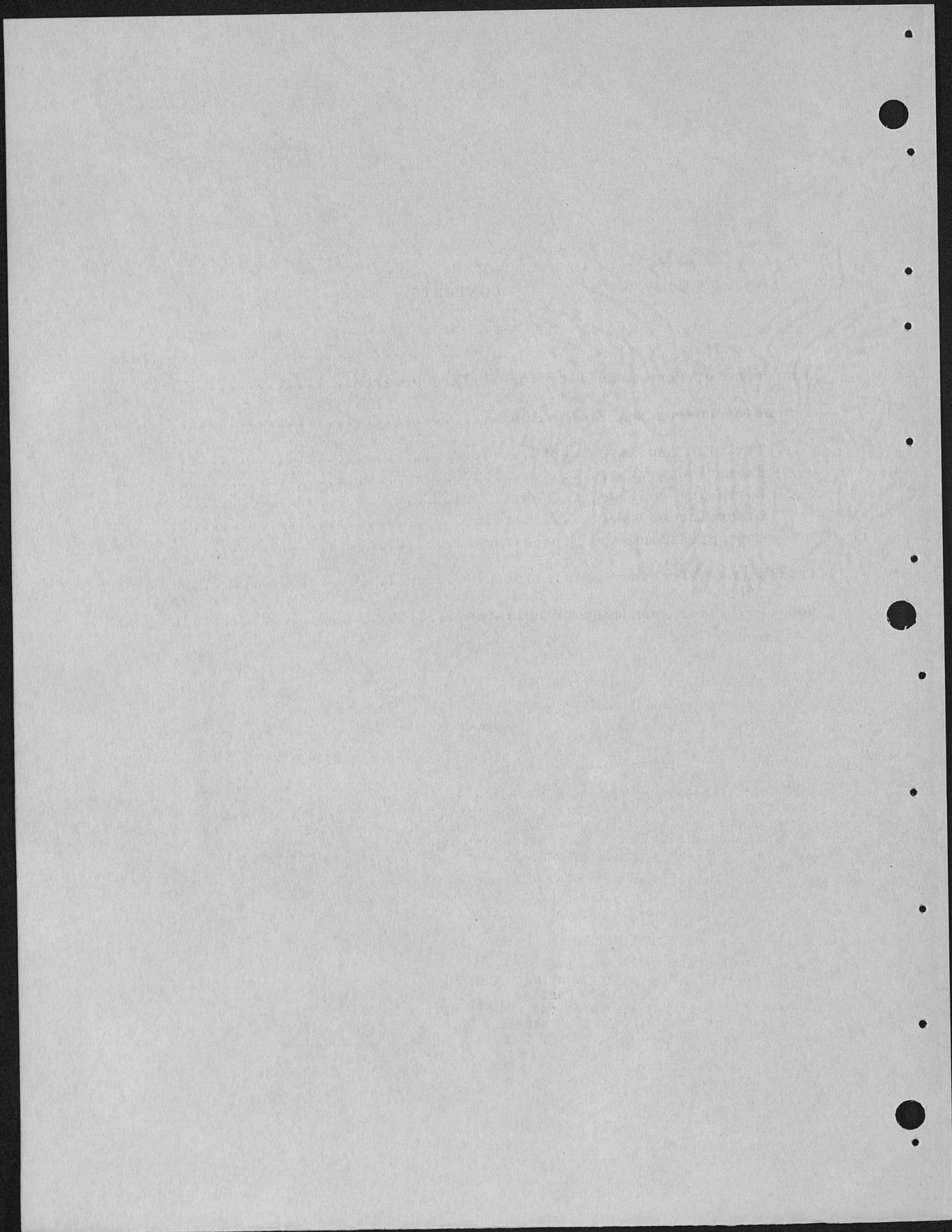
An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

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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Idaho

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN IDAHO¹

I. Incidence of Responsibility for Welfare Program

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

II. Financial Powers and Limitations

A. Taxation and Assessments³

(1) State

(a) The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation.⁴

¹Constitution (1889), as published by legislative authority in the Idaho Code (Bobbs-Merrill 1932); with all amendments to June 16, 1937.

The power of the Legislature to enact a special election law was upheld where the Constitution did not contain any specific provision granting such power. The court in its opinion stated that: "The state Legislature possesses all legislative power and authority, except in such instances and to such extent as the Constitutions of the state and of the United States have imposed limitations and restraints thereon. * * *" Koelsch vs. Girard, 54 Idaho 452, 33 P. (2d) 816 (1934).

²Constitution, Art. X, Sec. 1.

³Constitution, Art. VII, Sec. 2.

"The Legislature possesses plenary power with reference to all matters of taxation, as well as all other legislation, except as such power is limited by the Constitution." State vs. Nelson, 36 Idaho 713, 213 P. 358 (1923).

⁴Constitution, Art. VII, Sec. 2.

The Legislature was held not limited in the exercise of its taxing powers to the levy of the property, license, and per capita taxes enumerated in this section; excise taxes may be levied. An excise tax was held to be any tax other than a poll or property tax. Independent School District, etc., vs. Pfost, 51 Idaho 240, 4 P. (2d) 893 (1931); Diefendorf vs. Gallet, 51 Idaho 619, 10 P. (2d) 307 (1932).

The requirement that taxes be laid uniformly and according to value was held to apply to property taxes only. Accordingly a graduated income tax, being an excise, was held valid. Diefendorf vs. Gallet, 51 Idaho 619, 10 P. (2d) 307 (1932).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(b) All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.⁵

(c) The word "property" as herein used shall be defined and classified by law.⁶

(d) All taxes levied for state purposes shall be paid into the state treasury, and 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 taxes to be levied for state purposes.⁷

A gasoline tax, being an excise, was held valid under this section. *Independent School District, etc., vs. Pfost*, 51 Idaho 240, 4 P. (2d) 893 (1931).

An inheritance tax was held to be an excise exacted by the State for the privilege, granted by its laws, of inheriting or succeeding to property. *State ex rel. Peterson vs. Dunlap*, 28 Idaho 784, 156 P. 1141 (1916).

A license tax imposing a progressively graduated fee on owners of multiple stores ranging from \$5 on one store up to \$500 on each store above 19 was held valid as not being a "property" tax, and so not subject to the uniformity requirement of the Constitution. *J. C. Penny Company vs. Diefendorf*, 54 Idaho 374, 32 P. (2d) 784 (1934).

A 2-percent sales tax was held to be an excise tax rather than a "property" tax so that the uniformity requirement did not apply. *Johnson vs. Diefendorf*, 56 Idaho 620, 57 P. (2d) 1068 (1936).

⁵ Constitution, Art. VII, Sec. 5.

The uniformity requirement of this section that "all taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax" was held to apply to property taxes only. *Diefendorf vs. Gallet*, 51 Idaho 619, 10 P. (2d) 307 (1932). See p. 1, footnote 4.

The inhibition against "duplicate taxation of property" contained in this section was held to apply only to direct property taxes for the same purpose, for the same year, and to extend no farther than the inhibition contained in the uniformity clause of this section. *Ibid.* See also *George B. Wallace, Inc. vs. Pfost*, 65 P. (2d) 725 (1937).

⁶ Constitution, Art. VII, Sec. 3.

⁷ Constitution, Art. VII, Sec. 7.

A statute which provided that counties in paying over to the State the proceeds of the general State taxes collected by them might deduct 50 percent of the amount paid out by them in furnishing emergency employment to those unable to secure other work was held invalid as a violation of this section. *Epperson vs. Howell*, 28 Idaho 338, 154 P. 621 (1916).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(e) The power to tax corporations or corporate property, both real and personal, 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 within the territorial limits of the authority levying the tax.⁸

(f) The rate of taxation of real and personal property for state purposes shall never exceed ten mills on each dollar of assessed valuation, unless a proposition to increase such rate, specifying the rate proposed and the time during which the same shall be levied, shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it at such election.⁹

(2) Counties and Other Local Units

(a) The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by law invest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.¹⁰

(b) The legislature shall provide by law, such a system of county finance, as shall cause the business of the several counties to be conducted on a cash basis. It shall also provide that whenever any

⁸Constitution, Art. VII, Sec. 8.

In upholding a statute exempting power companies pumping water for irrigation purposes from taxation, it was held that this section was not designed to prevent the suspension of a particular tax on a corporation, but rather to prevent the Legislature from bargaining away its power to tax corporations in charter provisions. *Williams vs. Baldrige*, 48 Idaho 618, 284 P. 203 (1930).

⁹Constitution, Art. VII, Sec. 9.

The tax levy authorized by this section "for state purposes" is intended to cover the current and running expenses of maintaining and conducting the State Government—legislative, executive, and judicial—and operating and maintaining the State institutions. *Gooding vs. Profitt*, 11 Idaho 380, 83 P. 230 (1905).

Public or bonded indebtedness incurred under the provisions of Sec. 1 of Art. VIII of the Constitution (p. 5, par. (a)) for internal improvements and the erection of public buildings and institutions is not anticipated or comprehended within the provisions of this section, and a tax levy for paying the principal and interest of such indebtedness does not fall within the limits of the maximum rate of taxation as herein specified. *Ibid.*

¹⁰Constitution, Art. VII, Sec. 6.

County commissioners derive their power to levy taxes solely from the statutes and can levy only those taxes authorized by the Legislature. *Oregon Short Line Railway Company vs. Gooding County*, 33 Idaho 452, 196 P. 196 (1921).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units—Continued

county shall have any warrants outstanding and unpaid, for the payment of which there are no funds in the county treasury, the county commissioners, in addition to other taxes provided by law, shall levy a special tax, not to exceed ten mills on the dollar, of taxable property, as shown by the last preceding assessment, for the creation of a special fund for the redemption of said warrants; and after the levy of such special tax, all warrants issued before such levy, shall be paid exclusively out of said fund. All moneys in the county treasury at the end of each fiscal year, not needed for current expenses, shall be transferred to said redemption fund.¹¹

B. Exemptions

(1) * * * the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just,¹² * * *.

(2) The property of the United States, the state, counties, towns, cities, and other municipal corporations and public libraries shall be exempt from taxation.¹³

¹¹Constitution, Art. VII, Sec. 15.

Where a county had outstanding warrants and was desirous of paying the warrants and placing itself on a cash basis it was held that the county might, under this section and existing legislation, either (1) levy a special tax not to exceed 10 mills on the dollar of taxable property for the creation of a special fund for the redemption of the warrants, or (2) fund its outstanding warrants by the issuance of bonds in which case the bonds would be general obligations of the county, payable as other general obligations, and that the 10-mill levy clause of this section would have no application to such funding bonds. *Lloyd Corporation vs. Bannock County*, 53 Idaho 478, 25 P. (2d) 217 (1933). See p. 6, par. (a) and footnote 18 thereunder.

It was held that the warrant redemption fund of this section could not be used to pay ordinary and necessary expenses of county government, but only for the redemption of outstanding warrants. *Garrity vs. Board of Commissioners of Owyhee County*, 54 Idaho 342, 34 P. (2d) 949 (1934).

¹²Constitution, Art. VII, Sec. 5.

The Legislature has the sole right to determine what property should be exempt from taxation under this section. *Achenbach vs. Kincaid*, 25 Idaho 768, 140 P. 529 (1914). *Williams vs. Baldrige*, 48 Idaho 618, 284 P. 203 (1930).

Classification for purposes of tax exemption must not be arbitrary, however, but must have some basis of reason. *Williams vs. Baldrige*, 48 Idaho 618, 284 P. 203 (1930).

See p. 5, footnote 16.

¹³Constitution, Art. VII, Sec. 4.

This section was held to apply to "property" taxes only. School districts were held subject to a gasoline tax since the statute in question did not exempt them. *Independent School District, etc., vs. Pfost*, 51 Idaho 240, 4 P. (2d) 893 (1931).

Municipalities were held subject to a gasoline tax since this section refers to property taxes only. *City of Burley vs. Pfost*, 51 Idaho 255, 4 P. (2d) 898 (1931).

An excise tax on the sale of electricity was held not to apply to municipalities, however, because it did not appear from the act that it was the intent of the Legislature to tax municipalities. *City of Idaho Falls vs. Pfost*, 53 Idaho 247, 23 P. (2d) 245 (1933).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit

(1) State¹⁴

(a) The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, exclusive of the debt of the territory at the date of its admission as a state, and exclusive of debts or liabilities incurred subsequent to January 1, 1911, for the purpose of completing the construction and furnishing of the state capitol at Boise, Idaho, and exclusive of debt or debts, liability or liabilities incurred by the eleventh session of the legislature of the state of Idaho, exceed in the aggregate the sum of two million dollars, except in case of war, to repel an invasion, or suppress an insurrection, unless the same shall be authorized by law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest on such debt or liability as it falls due, and also for the payment and discharge of the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged. But no such law shall take effect until at a general election it shall have been submitted to the people, and shall have received a majority of all the votes cast for or against it at such election, and all moneys raised by the authority of such laws shall be applied only to specified objects therein stated or to the payment of the debt thereby created,¹⁵ * * *.

(b) The credit of the state shall not, in any manner, be given, or loaned to, or in aid of any individual, association, municipality or corporation; nor shall the state directly, or indirectly, become a stockholder in any association or corporation, provided, that the state itself may control and promote the development of the unused water power within this state.¹⁶

¹⁴"Except as limited by constitutional provisions, the Legislature has absolute control over the finances of the state; and its power as to the creation of indebtedness or the expenditure of state funds, or making appropriations, is plenary, and the exercise of this power cannot be controlled or reviewed by the courts." State ex rel. Davis vs. Banks, 33 Idaho 765, 198 P. 472 (1921).

¹⁵Constitution, Art. VIII, Sec. 1.
Treasury notes issued in anticipation of taxes already levied were held not to constitute a debt within the meaning of this section. State ex rel. Black vs. Eagle-son, 32 Idaho 276, 181 P. 934 (1919).
See p. 3, par. (f), and footnote 9.

¹⁶Constitution, Art. VIII, Sec. 2.
A statute granting a tax exemption to a certain class of power companies was held not to constitute the loaning of the credit of the State to a private company or individual. Williams vs. Baldrige, 48 Idaho 618, 284 P. 203 (1930).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(1) State—Continued

(c) The state shall never assume the debts of any county, town, or other municipal corporation, unless such debts shall have been created to repel invasion, suppress insurrection or defend the state in war.¹⁷

(2) Counties and Other Local Units

(a) No county, city, town, township, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state.¹⁸

¹⁷Constitution, Art. XII, Sec. 3.

¹⁸Constitution, Art. VIII, Sec. 3.

This section was held not to prohibit the incurring of indebtedness for "ordinary and necessary expenses authorized by the general laws of the State," by the issuance of emergency warrants. *Lloyd Corporation vs. Bannock County*, 53 Idaho 478, 25 P. (2d) 217 (1933).

In holding that the maintenance of the streets was an "ordinary and necessary" expense and so warrants issued for that purpose were not subject to the inhibitions of this section, the court stated: "An expense is ordinary if in the ordinary course of the transaction of municipal business, or the maintenance of municipal property, it may be and is likely to become necessary." *Thomas vs. Glindeman*, 33 Idaho 394, 195 P. 92 (1921).

The issuance of refunding bonds to retire warrant indebtedness was held not to create an indebtedness within the meaning of this section. *Lloyd Corporation vs. Bannock County*, 53 Idaho 478, 25 P. (2d) 217 (1933). *Marsing vs. Gem Irrigation District*, 56 Idaho 29, 48 P. (2d) 1099 (1935).

A statute authorizing the board of regents of the University of Idaho to borrow money from the Federal Government to construct an infirmary, the sum borrowed to be payable out of the net income from the project, was held not to create a "debt" within the meaning of this section because the general revenues of the State or political subdivisions were in no way pledged. *State ex rel. Miller vs. State Board of Education*, 56 Idaho 210, 52 P. (2d) 141 (1935).

Municipal obligations, incurred for the construction of streets, payable solely out of special assessments levied against property particularly benefited were held not to constitute an indebtedness within the meaning of this section. *Byrns vs. City of Moscow*, 21 Idaho 398, 121 P. 1034 (1912).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(2) Counties and Other Local Units—Continued

(b) No county, city, town, township, board of education, or school district, or other subdivision, shall lend, or pledge the credit or faith thereof directly or indirectly, in any manner, to, or in aid of any individual, association, or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association, or corporation in or out of this state.¹⁹

(c) No county, town, city, or other municipal corporation, by vote of its citizens or otherwise, shall ever become a stockholder in any joint stock company, corporation or association whatever, or raise money for, or make donation or loan its credit to, or in aid of, any such company or association: provided, that cities and towns may contract indebtedness for school, water, sanitary and illuminating purposes: provided, that any city or town contracting such indebtedness shall own its just proportion of the property thus created and receive from any income arising therefrom, its proportion to the whole amount so invested.²⁰

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.²¹

E. Appropriations and Expenditures

(a) No appropriation shall be made, nor any expenditure authorized by the legislature, whereby the expenditure of the state during any fiscal year shall exceed the total tax then provided for by law,

¹⁹Constitution, Art. VIII, Sec. 4.

²⁰Constitution, Art. XII, Sec. 4.

²¹Constitution, Art. IX, Sec. 4.

Art. IX, Sec. 3 of the Constitution provides that the public school fund shall remain intact and the interest only shall be expended for school purposes.

II. Financial Powers and Limitations—Continued

E. Appropriations and Expenditures—Continued

and applicable to such appropriation or expenditure, unless the legislature making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section nine of this article, to pay such appropriation or expenditure 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.²²

(b) No money shall be drawn from the treasury, but in pursuance of appropriations made by law.²³

(c) Neither the legislature, nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the state, or any such public corporation, to any church or for any sectarian or religious purpose.²⁴

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

The sessions of the legislature shall, after the first session thereof, be held biennially at the capital of the state, commencing on the first Monday after the first day of January and every second year thereafter, unless a different day shall have been appointed by law, and at other times when convened by the governor.²⁵

B. Special Sessions of Legislature

The governor may, on extraordinary occasions, convene the legislature by proclamation, stating the purposes for which he has convened it; but when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation; but may provide for the expenses of the session and other matters incidental thereto. He

²²Constitution, Art. VII, Sec. 11.

²³Constitution, Art. VII, Sec. 13.

²⁴Constitution, Art. IX, Sec. 5.

²⁵Constitution, Art. III, Sec. 8.

III. Provisions Affecting Legislation—Continued

B. Special Sessions of Legislature—Continued

may also, by proclamation, convene the senate in extraordinary session for the transaction of executive business.²⁶

C. Powers of Initiative and Referendum

* * * The people reserve to themselves the power to approve or reject at the polls any act or measure passed by the legislature. This power is known as the referendum, and legal voters may, under such conditions and in such manner as may be provided by acts of the legislature, demand a referendum vote on any act or measure passed by the legislature and cause the same to be submitted to a vote of the people for their approval or rejection.

The people reserve to themselves the power to propose laws, and enact the same at the polls independent of the legislature. This power is known as the initiative, and legal voters may, under such conditions and in such manner as may be provided by acts of the legislature, initiate any desired legislation and cause the same to be submitted to the vote of the people at a general election for their approval or rejection provided that legislation thus submitted shall require the approval of a number of voters equal to a majority of the aggregate vote cast for the office of governor at such general election to be adopted.²⁷

D. Legislative Enactment

(1) Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the house of representatives.²⁸

(2) No law shall be passed except by bill, nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall

²⁶Constitution, Art. IV, Sec. 9.

The question of whether an extraordinary occasion existed which justified the calling of a special session was held by the Federal District Court to be a matter of discretion with the Governor which the court would not review. *Utah Power and Light Company vs. Pfof*, 52 F. (2d) 226 (1931).

²⁷Constitution, Art. III, Sec. 1.

The statutes provide that referendum petitions must be filed not more than 60 days after the adjournment of the session of the Legislature which passed the bill. Ordinary measures cannot take effect until 60 days after the adjournment of the session, but emergency measures take effect immediately. (See Art. III, Sec. 22, p. 10, par. (5).) Ordinary measures against which a referendum petition has been filed were held not to go into effect unless and until approved by the voters. Emergency measures, however, against which a referendum petition has been filed were held to remain in effect unless and until rejected by the voters. *Johnson vs. Diefendorf*, 56 Idaho 620, 57 P. (2d) 1068 (1936).

²⁸Constitution, Art. III, Sec. 14.

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

any bill become a law unless the same shall have been read on three several days in each house previous to the final vote thereon: provided, in case of urgency, two-thirds of the house where such bill may be pending may, upon a vote of the yeas and nays, dispense with this provision. On the final passage of all bills, they shall be read at length, section by section, and the vote shall be by yeas and nays upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members present.²⁹

(3) Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.³⁰

(4) The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: * * * For the assessment and collection of taxes. * * * Exempting property from taxation.³¹ * * *

(5) No act shall take effect until sixty days from the end of the session at which the same shall have been passed, except in case of emergency, which emergency shall be declared in the preamble or in the body of the law.³²

(6) Every bill passed by the legislature 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 objection to the house in which it originated, which house shall enter the objections at large upon its journals 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,

²⁹Constitution, Art. III, Sec. 15.

³⁰Constitution, Art. III, Sec. 16.

An act which related to the operation of certain cities under the commission form of government, and incorporated by reference existing sections of the Code applicable to such cities was held valid. The court in its opinion stated that: "however numerous the provisions of an act may be, if they can be by fair intendment considered as falling within the subject matter legislated upon in such act, or necessary as ends and means to the attainment of such subject, the act will not be in conflict with this constitutional provision; * * * while this provision is mandatory, yet it is to be given a liberal and not a strict construction." Boise City vs. Baxter, 41 Idaho 368, 238 P. 1029 (1925).

³¹Constitution, Art. III, Sec. 19.

³²Constitution, Art. III, Sec. 22.
See p. 9, par. C.

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

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. Any bill which shall not be returned by the governor to the legislature within five days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the legislature shall, by adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the secretary of state within ten days after such adjournment (Sundays excepted) or become a law.³³

(7) The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts approved shall become a law and the item or items disapproved shall be void, unless enacted in the manner following: If the legislature be in session, he shall within five days transmit to the house within which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.³⁴

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

(1) Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and if the same shall be agreed to by two-thirds of all the members of each of the two houses, voting separately, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the legislature to submit such amendment or amendments to the electors of the state at the next general election, and cause the same to be published without delay for at least six consecutive weeks, prior to said election, in not less than one newspaper of general circulation published in each county; and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this constitution.³⁵

³³Constitution, Art. IV, Sec. 10.

³⁴Constitution, Art. IV, Sec. 11.

³⁵Constitution, Art. XX, Sec. 1.

The requirements of this section were held to be mandatory and where a proposed amendment expressly fixed the term of certain State officers at 4 years and the question as submitted on the ballot was whether the term of these officers should be

IV. Constitutional Amendment or Revision—Continued

A. By Proposal of Legislature or People—Continued

(2) If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.³⁶

B. By Constitutional Convention

(1) Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend this constitution, they shall recommend to the electors to vote at the next general election, for or against a convention, and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members, not less than double the number of the most numerous branch of the legislature.³⁷

(2) Any constitution adopted by such convention, shall have no validity until it has been submitted to, and adopted by, the people.³⁸

"limited" to 4 years, the proposed amendment was held not to have been adopted. Lane vs. Lukens, 48 Idaho 517, 283 P. 532 (1929).

³⁶Constitution, Art. XX, Sec. 2.

³⁷Constitution, Art. XX, Sec. 3.

³⁸Constitution, Art. XX, Sec. 4.

