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

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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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Utah

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING  
PUBLIC WELFARE IN UTAH<sup>1</sup>

I. Incidence of Responsibility for Welfare Program

A. 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, and under such boards of control as may be prescribed by law.<sup>2</sup>

B. Institutions for the Deaf and Dumb, and for the Blind, are hereby established. All property belonging to the School for the Deaf and Dumb, heretofore connected with the University of Utah, shall be transferred to said Institution for the Deaf and Dumb.<sup>3</sup> \* \* \*

C. Until otherwise provided by law, the Governor, State Treasurer and State Auditor shall constitute a Board of Insane Asylum Commissioners. Said Board shall have such supervision of all matters connected with the State Insane Asylum as may be provided by law.<sup>4</sup>

D. Until otherwise provided by law, the Governor, Attorney-General and Superintendent of Public Instruction shall constitute a Board

<sup>1</sup>Constitution (1896), as published by Milton H. Welling, Secretary of State (1933); with all amendments to April 1, 1937.

"The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise." Constitution, Art. I, Sec. 26.

"It is a truism recognized by all the authorities that the Legislature of a state is vested with the whole of the legislative power of the state and may deal in any subject within the scope of constitutional government except as such power is limited or directed by express provisions of the Constitution or necessary implication arising therefrom. 'State Constitutions are limitations, and not grants, of powers.'" *Lehi City vs. Meiling*, 48 P. (2d) 530, 535 (1935).

Restrictions upon the use of property and the right to contract are valid if imposed in the interest of the whole people, such restrictions being a proper exercise of the police power by the Legislature. "Many attempts have been made to define police power. There is good reason to say that the multitude of such attempts with the many variations in phrasing the matter have not added very much to the simple expression, that it is the power to make all laws which in contemplation of the Constitution promote the public welfare. This both defines the power and states the limitations on its exercise, \* \* \*." *State vs. Packer Corporation*, 297 P. 1013, 1016 (1931).

<sup>2</sup>Constitution, Art. XIX, Sec. 2.

<sup>3</sup>Constitution, Art. X, Sec. 10.

<sup>4</sup>Constitution, Art. VII, Sec. 14.

The government and control of the Utah State Hospital for the Insane is vested in a board, consisting of the Governor, the State Treasurer and the State Auditor. Revised Statutes (1933), title 85, ch. 7, par. 2.



## I. Incidence of Responsibility for Welfare Program—Continued

of Reform School Commissioners. Said Board shall have such supervision of all matters connected with the State Reform School as may be provided by law.<sup>5</sup>

## II. Financial Powers and Limitations

### A. Taxation and Assessments

#### (1) State

(a) All tangible property in the State, not exempt under the laws of the United States, or under this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law \* \* \*.

The Legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the State for each fiscal year. For the purpose of paying the State debt, if any there be, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest and to pay the principal of such debt, within twenty years from the final passage of the law creating the debt.<sup>6</sup>

(b) The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all tangible property in the State, according to its value in money, and shall prescribe by law such regulations as shall secure a just valuation for taxation of such property, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its tangible property, provided that the Legislature may determine the manner and extent of taxing transient live stock and live stock being fed for slaughter to be used for human consumption.

<sup>5</sup>Constitution, Art. VII, Sec. 15.

The government and control of the State Industrial School is vested by statute in a Board of Trustees, consisting of the Attorney General, the State Superintendent of Public Instruction, and five resident citizens of the State. Revised Statutes (1933), title 85, ch. 6, par. 2. The five citizen members of the Board of Trustees are appointed by the Governor by and with the consent of the Senate. Revised Statutes (1933), title 85, ch. 1, par. 1.

<sup>6</sup>Constitution, Art. XIII, Sec. 2, as amended (1930).

The requirement that property be taxed in proportion to its value does not apply to special assessments which are based on the benefits accruing. *Lundberg vs. Green River Irrigation District*, 40 U. 83, 119 P. 1039 (1911). A levy imposed solely on an acreage basis and not according to value, on all lands within a drainage district, was held to be a "special assessment" rather than a "property tax." *State ex rel. Ferry vs. Corinne Drainage District of Box Elder County*, 48 U. 1, 156, P. 921 (1916).

Water rights of a mining corporation are taxable under this section. *Utah Metal & Tunnel Company vs. Groesbeck*, 62 U. 251, 219 P. 248 (1923).

The assessment of all the coal lands in a county, at a flat rate per acre, was held to violate the uniformity requirement of this section, because the court took judicial notice of the fact that all the coal lands were not of equal value per acre. *Ririe vs. Randolph*, 51 U. 274, 169 P. 941 (1917).



## II. Financial Powers and Limitations—Continued

## A. Taxation and Assessments—Continued

## (1) State—Continued

Intangible property may be exempted from taxation as property or it may be taxed in such manner and to such extent as the Legislature may provide. Provided that if intangible property be taxed as property the rate thereof shall not exceed five mills on each dollar of valuation. When exempted from taxation as property, the taxable income therefrom shall be taxed under any tax based on incomes, but when taxed by the State of Utah as property, the income therefrom shall not also be taxed. The Legislature may provide for deduction, exemptions, and or offsets on any tax based upon income. The personal income tax rates shall be graduated but the maximum rate shall not exceed six per cent of net income. No excise tax rate based upon income shall exceed four per cent of net income. The rate limitations herein contained for taxes based on income and for taxes on intangible property shall be effective until January 1, 1937, and thereafter until changed by law by a vote of the majority of the members elected to each house of the Legislature. All revenue received from taxes on income or from taxes on intangible property shall be allocated as follows: 75 per cent thereof to the State District School Fund and 25 per cent thereof to the State General Fund and the State levies for such purposes shall be reduced annually in proportion to the revenues so allocated; provided that any surplus above the revenue required for the State District School Fund as provided in Section 7 of this Article shall be paid into the State General Fund.<sup>7</sup>

<sup>7</sup>Constitution, Art. XIII, Sec. 3, as amended (1930).

The requirement of uniformity and equality does not apply to special assessments. *Lundberg vs. Green River Irrigation District*, 40 U. 83, 119 P. 1039 (1911).

State Constitutions are mere limitations and not grants of power, and the power of taxation is vested in the Legislature subject to the limitations in the Constitution. The equality and uniformity provisions of this section apply only to property taxes and have no application to license or occupation taxes. The latter types of taxation may be classified so long as the classification is not "arbitrary or unreasonable." *Salt Lake City vs. Christensen Company*, 34 U. 38, 95 P. 523 (1908).

A two percent sales tax does not violate the uniformity and equality clause of this section, because a sales tax is not a tax upon property. *W. F. Jensen Candy Company vs. State Tax Commission*, 61 P. (2d) 629 (1936).

An inheritance tax statute, discriminating between relatives and making exemptions, was held not to violate the uniformity clauses of the Constitution because an inheritance tax is not a tax on property but a tax on the succession to property. The right of a person to pass on his property at death is a privilege granted by statute and the Legislature may place conditions on this privilege. *Dixon vs. Ricketts*, 26 U. 215, 72 P. 947 (1903).

"(1) The death duty or inheritance tax, by whatever name it is called, is not a tax on property, but is an excise or impost on the right to transmit or the right or privilege to succeed to property. \* \* \* (2) Neither the right to transmit nor the right to receive is an inherent right, but is a privilege which depends on the consent of the state. The state which confers the privilege may impose conditions. Stated in another way, the state's power over inheritance taxes is plenary." *State Tax Commission vs. Backman*, 55 P. (2d) 171, 172 (1936).



## II. Financial Powers and Limitations—Continued

## A. Taxation and Assessments—Continued

## (1) State—Continued

(c) The rate of taxation on tangible property shall not exceed on each dollar of valuation, two and four-tenths mills for general State purposes, two-tenths of one mill for high school purposes, which shall constitute the high school fund; \* \* \*. Said rates shall not be increased unless a proposition to increase the same specifying the rate or rates proposed and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the state, as in the year next preceding such election, shall have paid a property tax assessed to them within the state, and the majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.<sup>8</sup>

(d) All metalliferous mines or mining claims, both placer and rock in place, shall be assessed as the Legislature shall provide; provided, the basis and multiple now used in determining the value of metalliferous mines for taxation purposes and the additional assessed value of \$5.00 per acre thereof shall not be changed before January 1, 1935, nor thereafter until otherwise provided by law. All other mines or mining claims and other valuable mineral deposits, including lands containing coal or hydrocarbons and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims, and the value of any surface use made of mining claims, or mining property for other than mining purposes, shall be assessed as other tangible property.<sup>9</sup>

(e) All corporations or persons in this State, or doing business herein, shall be subject to taxation for State, County, School, Municipal or other purposes, on the real and personal property owned or used by them within the Territorial limits of the authority levying the tax.<sup>10</sup>

<sup>8</sup>Constitution, Art. XIII, Sec. 7, as amended (1930).

In a proceeding to compel the county commissioners to levy and collect a tax for an agricultural inspection fund provided for by statute, it was held that the levy was properly refused when it would have increased the rate of taxation on property for State purposes beyond the limit permitted by this section. *Bennion vs. Burgon*, 65 U. 433, 238 P. 236 (1925). See page 11, par. (1).

<sup>9</sup>Constitution, Art. XIII, Sec. 4, as amended (1930).

The words "than mining purposes, shall be assessed as other", in the last two lines of this section, do not appear in any published Constitution of this State. They are taken from the Laws of Utah (1930), Special Session, from the act proposing the amendment.

<sup>10</sup>Constitution, Art. XIII, Sec. 10.

As a general rule the residence of the owner of tangible personal property is immaterial, and the property is taxable where it is found. The construction equipment of a foreign corporation, however, brought into the State and used in construction work for an indefinite period, was held taxable in the county where it was used. *Hamilton & Gleason Company vs. Emery County*, 285 P. 1006 (1930).



## II. Financial Powers and Limitations—Continued

## A. Taxation and Assessments—Continued

## (1) State—Continued

(f) Nothing in this Constitution shall be construed to prevent the Legislature from providing a stamp tax, or a tax based on income, occupation, licenses or franchises.<sup>11</sup>

(g) \* \* \* The State Tax Commission shall administer and supervise the tax laws of the State. It shall assess mines and public utilities and adjust and equalize the valuation and assessment of property among the several counties. It shall have such other powers of original assessment as the Legislature may provide. Under such regulations in such cases and within such limitations as the Legislature may prescribe, it shall establish systems of public accounting, review proposed bond issues, revise the tax levies and budgets of local governmental units, and equalize the assessment and valuation of property within the counties. The duties imposed upon the State Board of Equalization by the Constitution and Laws of this State shall be performed by the State Tax Commission.<sup>12</sup> \* \* \*

## (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, vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.<sup>13</sup>

(b) \* \* \* In each county of this State there shall be a County Board of Equalization consisting of the Board of County Commissioners of said county. The County Boards of Equalization shall adjust and equalize the valuation and assessment of the real and personal property within their respective counties, subject to such regulation and control by the State Tax Commission as may be prescribed by law. The

<sup>11</sup>Constitution, Art. XIII, Sec. 12, as amended (1906).

<sup>12</sup>Constitution, Art. XIII, Sec. 11, as amended (1930).

<sup>13</sup>Constitution, Art. XIII, Sec. 5.

This section authorizes the Legislature to empower counties, cities, towns or other municipal corporations to levy taxes for all purposes of the local governmental unit involved. *Kimball vs. City of Grantsville City*, 19 U. 368, 57 P. 1 (1899).

Under this section the Legislature may not levy a tax for a local purpose. The Legislature, however, may levy a license fee which is not for a revenue purpose but is for the purpose of paying the expenses of the administration of a regulatory law. So a statute requiring the payment of a five dollar fee to municipalities for a permit to sell oleomargarine was valid. *The Best Foods Incorporated vs. Christensen*, 75 U. 392, 285 P. 1001 (1930).

A statute which authorized counties to levy a tax for dependent mothers' pensions was held valid since the object of this tax was a proper local purpose. *Denver & R. G. R. Company vs. Grand County*, 51 U. 294, 170 P. 74 (1917).

The limits of city taxation are fixed by statute. *Plutus Mining Company vs. Orme*, 76 U. 286, 289 P. 132 (1930).



## II. Financial Powers and Limitations—Continued

### A. Taxation and Assessments—Continued

#### (2) Counties and Other Local Units—Continued

State Tax Commission and the County Boards of Equalization shall each have such other powers as may be prescribed by the Legislature.<sup>14</sup>

(c) \* \* \* The power to be conferred upon the cities by this section shall include the following:

To levy, assess and collect taxes and borrow money, within the limits prescribed by general law, and to levy and collect special assessments for benefits conferred.<sup>15</sup> \* \* \*

(d) The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.<sup>16</sup>

### B. Exemptions

(1) \* \* \* The property of the United States, of the State, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Water rights, ditches, canals, reservoirs, power plants, pumping plants, transmission lines, pipes and flumes owned and used by individuals or corporations for irrigating lands within the State owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed as long as they shall be owned and used exclusively for such purposes. Power plants, power transmission lines and other property used for generating and delivering electrical power, a portion of which is used for furnishing power for pumping water for irrigation purposes on lands in the State of Utah, may be exempted from taxation to the extent that such property is used for such purposes. These exemptions shall accrue to the benefit of the users of water so pumped under such regulations as the Legislature may prescribe. The taxes of the indigent poor may be remitted or abated at such times and in such manner as may be provided by law. \* \* \*

<sup>14</sup> Constitution, Art. XIII, Sec. 11, as amended (1930).

<sup>15</sup> Constitution, Art. XI, Sec. 5, as amended (1932).

This section is not self-executing. In order to exercise the functions enumerated a city must adopt a charter, or in the absence of a charter a city may only exercise those functions granted to it by legislative enactment. *Utah Rapid Transit Company vs. Ogden City*, 58 P. (2d) 1 (1936).

<sup>16</sup> Constitution, Art. VI, Sec. 29.



## II. Financial Powers and Limitations—Continued

## B. Exemptions—Continued

The Legislature may provide for the exemption from taxation of homes, homesteads, and personal property, not to exceed \$2,000 in value for homes and homesteads, and \$300 for personal property. Property not to exceed \$3,000 in value, owned by disabled persons who served in any war in the military service of the United States or of the State of Utah and by the unmarried widows and minor orphans of such persons may be exempted as the Legislature may provide.<sup>17</sup> \* \* \*

(2) \* \* \* nor shall taxes be imposed by this State on lands or property herein, belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, by patent or other grant, a title thereto, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the act of Congress granting the same.<sup>18</sup>

<sup>17</sup> Constitution, Art. XIII, Sec. 2, as amended (1936).

For exemptions in connection with intangible property and income taxes, see page 2, par. (b). This section exempting property "used exclusively for either religious worship or charitable purposes" means that "the building itself, or the portion thereof for which exemption is claimed, as distinguished from the rent or income derived therefrom, must be used exclusively for religious worship or charitable purposes." So where a building was owned by an Odd Fellows Lodge, and part of it was used for lodge halls, and part of it rented out, the rentals being used for charitable purposes, the part rented out was not exempt from taxation. *Odd Fellows' Building Association vs. Naylor*, 53 U. 111, 177 P. 214 (1918). Following same rule laid down in: *Parker vs. Quinn*, 23 U. 332, 64 P. 961 (1901).

Whether or not a hospital is "used exclusively for charitable purposes", and as such is exempt from taxation under this section, depends upon the facts of each case. Where a hospital was operated by a private corporation, which had the legal right to pay dividends, even though all the profits had been used to add to the hospital, it was held not exempt from taxation as being used for "charitable purposes." *William Budge Memorial Hospital vs. Maughan*, 79 U. 516, 3 P. (2d) 258 (1931). Rehearing denied: 13 P. (2d) 1119.

The clause of this section first quoted exempting the property of various governmental units applies only to property taxes. A tax on the sale of electrical energy, which applied to municipal power plants as well as to private power plants, did not violate this section exempting from taxation the "property of Municipal Corporations" because this was not a property tax. *State Tax Commission vs. City of Logan*, 54 P. (2d) 1197 (1936).

Likewise a county must pay the regular tax on the gasoline it buys for its own use, because this is an excise tax and not a tax on any "property of the county." *Crockett vs. Salt Lake County*, 72 U. 337, 270 P. 142 (1928).

<sup>18</sup> Constitution, Art. III, Second (Part).



## II. Financial Powers and Limitations—Continued

## C. Borrowing and Use of Credit

## (1) State

(a) To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings, and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time, an amount equal to one and one-half per centum of the value of the taxable property of the State, as shown by the last assessment for State purposes, previous to the incurring of such indebtedness. But the State shall never contract any indebtedness, except as in the next Section provided, in excess of such amount, and all monies arising from loans herein authorized, shall be applied solely to the purposes for which they were obtained.<sup>19</sup>

(b) The State may contract debts to repel invasion, suppress insurrection, or to defend the State in war, but the money arising from the contracting of such debts shall be applied solely to the purpose for which it was obtained.<sup>20</sup>

(c) The State shall not assume the debt, or any part thereof, of any county, city, town or school district.<sup>21</sup>

(d) The Legislature shall not authorize the State, or any county, city, town, township, district or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate enterprise or undertaking.<sup>22</sup>

## (2) Counties and Other Local Units

(a) No debt in excess of the taxes for the current year shall be created by any county or subdivision thereof, or by any school

<sup>19</sup>Constitution, Art. XIV, Sec. 1, as amended (1910).

"The phrase 'shall never contract any indebtedness', in our judgment includes any obligation which the State undertakes or is obligated to pay or discharge out of future appropriations; that is, \* \* \* to be paid from monies derived from levies other than those made by the then existing Legislature, and which must necessarily be raised by levying a tax upon the property of the entire State, as contradistinguished from a mere city, county, or district levy." A statute, authorizing an indebtedness for the purpose of State University buildings, providing that it should be a debt of the University and not of the State, was held to be an "indebtedness" within the meaning of this section. State ex rel. University of Utah vs. Candland, 36 U. 406, 104 P. 285 (1909).

<sup>20</sup>Constitution, Art. XIV, Sec. 2.

<sup>21</sup>Constitution, Art. XIV, Sec. 6.

<sup>22</sup>Constitution, Art. VI, Sec. 31.

A statute, authorizing county commissioners to provide funds for agricultural extension work carried on by State colleges, does not violate this section, because such activity is not a private enterprise but rather is for a public purpose. Bailey vs. Van Dyke, 66 U. 184, 240 P. 454 (1925).



## II. Financial Powers and Limitations—Continued

## C. Borrowing and Use of Credit—Continued

## (2) Counties and Other Local Units—Continued

district therein, or by any city, town or village, or any subdivision thereof in this State; unless the proposition to create such debt, shall have been submitted to a vote of such qualified electors as shall have paid a property tax therein, in the year preceding such election, and a majority of those voting thereon shall have voted in favor of incurring such debt.<sup>23</sup>

(b) When authorized to create indebtedness as provided in Section 3 of this Article, no county shall become indebted to an amount, including existing indebtedness exceeding two per centum. No city, town, school district or other municipal corporation, shall become indebted to an amount, including existing indebtedness, exceeding four per centum of the value of the taxable property therein, the value to be ascertained by the last assessment for State and County purposes, previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes; provided, that no part of the indebtedness allowed in this section shall be incurred for other than strictly county, city, town or school district purposes; provided further, that any city of the first and second class when authorized as provided in Section three of this article, may be allowed to incur a larger indebtedness, not to exceed four per centum and any city of the third class, or town, not to exceed eight per centum additional, for supplying such city or town with water, artificial lights

<sup>23</sup>Constitution, Art. XIV, Sec. 3.

See par. (b), above.

The Legislature has vested in it all legislative power, except such as is expressly or impliedly withheld by the State or Federal Constitutions. A statute, authorizing the formation of Metropolitan Water Districts, composed of several municipalities, for the purpose of providing a water supply, having the power to tax the property within the district, and the power to borrow up to ten percent of the value of the taxable property within the district, was held not to violate the debt limits of this section and Section 4 of the Constitution (see par. (b), above). The court said that this section and Section 4 (par. (b), above) did not apply to such Metropolitan Water Districts because: (1) They were not subdivisions of either a city, town, or county within the meaning of the word "subdivision" as used in this section; (2) nor were they municipal corporations within the meaning of the phrase "other municipal corporations" as used in Section 4 of the Constitution. Nor was the statute unconstitutional because it allowed cities and towns indirectly to incur indebtedness in excess of the constitutional limit. *Lehi City vs. Meiling*, 48 P. (2d) 530 (1935).

The fact that such a Water District may be coextensive with one city or town, instead of embracing several cities or towns, does not affect the validity of the statute. *Provo City vs. Evans*, 48 P. (2d) 555 (1935).

The word "taxes" as used in this section means all revenue including that which is uncollected. The inhibition of this section goes only to the question of excess amount and not to the time of payment. If the amount of the indebtedness is limited to the revenue of the current year, the Constitution does not prohibit the payment of debt incurred in one year out of the next year's taxes. *Scott vs. Salt Lake County*, 58 U. 25, 196 P. 1022 (1921).



## II. Financial Powers and Limitations—Continued

### C. Borrowing and Use of Credit—Continued

#### (2) Counties and Other Local Units—Continued

or sewers, when the works for supplying such water, light and sewers, shall be owned and controlled by the municipality.<sup>24</sup>

### D. Other Income

(1) The proceeds of all lands that have been or may be granted by the United States to this State, for the support of the common schools; the proceeds of all property that may accrue to the State by escheat or forfeiture; all unclaimed shares and dividends of any corporation incorporated under the laws of this State; the proceeds of the sale of timber, mineral or other property from school and State lands, other than those granted for specific purposes; and five per centum of the net proceeds of the sale of public lands lying within the State, which shall be sold by the United States subsequent to the admission of this State into the Union, shall be and remain a perpetual fund, to be called the State school fund, the interest of which only, shall be distributed among the several school districts according to the last preceding school census.<sup>25</sup>

(2) \* \* \* All the proceeds of the lands granted by the United States, for the support of a Deaf and Dumb Asylum, and for an Institution for the Blind, shall be a perpetual fund for the maintenance of said Institutions. It shall be a trust fund, the principal of which shall remain inviolate, guaranteed by the State against loss or diversion.<sup>26</sup>

<sup>24</sup>Constitution, Art. XIV, Sec. 4, as amended (1910).

For Section 3, see page 8, par. (a).

The constitutional debt limits of this and the preceding section do not apply to Metropolitan Water Districts, *Lehi City vs. Melling*, 48 P. (2d) 530 (1935).

It has been held that bonds issued to finance an addition to a municipal utility plant would not constitute a "debt" within the meaning of this section if they were payable solely out of the revenues accruing from the addition, and that the income accruing from the addition might be allocated by statute, based on the proportionate value borne by it to the whole. Further, that if such bonds were payable out of the total revenues accruing from the utility and the addition they would constitute a "debt." *Fjeldsted vs. Ogden City*, 35 P. (2d) 825, (1934).

In ascertaining the debt limit of a county school district, it is proper to deduct from the present indebtedness the amount of sinking fund available for reducing indebtedness, and the amount of taxes assessed and levied for sinking fund purposes and for funds to apply on present bonded indebtedness, but it is not proper to deduct from such present indebtedness the amount of taxes levied and assessed for general school purposes, since the proceeds of such levy will not be used to reduce the existing indebtedness. *Cutler vs. Board of Education of Beaver County School District*, 57 U. 73, 192 P. 621 (1920).

<sup>25</sup>Constitution, Art. X, Sec. 3, as amended (1930).

Article X, Section 5 of the Constitution provides that the proceeds of certain public lands shall be used for the support of colleges.

<sup>26</sup>Constitution, Art. X, Sec. 10.



## II. Financial Powers and Limitations—Continued

### E. Appropriations and Expenditures

(1) No appropriation shall be made, or 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, and applicable for such appropriation or expenditure, unless the Legislature making such appropriation, shall provide for levying a sufficient tax, not exceeding the rates allowed in section seven of this article, (see page 4, par. (c)) to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend the State, or assist in defending the United States in time of war.<sup>27</sup>

(2) All monies borrowed by, or on behalf of the State or any legal subdivision thereof, shall be used solely for the purpose specified in the law authorizing the loan.<sup>28</sup>

(3) Neither the Legislature nor any county, city, town, school district or other public corporation, shall make any appropriation to aid in the support of any school, seminary, academy, college, university or other institution, controlled in whole, or in part, by any church, sect or denomination whatever.<sup>29</sup>

## III. Provisions Affecting Legislation

### A. Regular Sessions of Legislature

(1) Regular sessions of the Legislature shall be held biennially \* \* \* and, \* \* \* shall begin on the second Monday in

<sup>27</sup>Constitution, Art. XIII, Sec. 9.

The county commissioners properly refused to levy and collect a tax which would have increased the rate of taxation on property for State purposes beyond the limit allowed by this section and Section 7, (see page 4, par. (c), and page 5, footnote 11).

Bennion vs. Burgon, 65 U. 433, 238 P. 236 (1925).

<sup>28</sup>Constitution, Art. XIV, Sec. 5.

Restrictive provisions, in municipal contracts for the construction of sewers for the purpose of relieving unemployment, which provided that all excavating, loading, and backfilling should be done by hand labor, and that preference in employment should be given to resident heads of families, which admittedly increased the cost of the improvement ten percent, were held invalid. The court stated that since these provisions increased the cost of the improvement, this was a diversion from the fund created by the sale of sewer bonds, and so violated this section. Bohn vs. Salt Lake City, 79 U. 121, 8 P. (2d) 591 (1932).

However, the fact that some of the specifications for a proposed extension of a city water system were indefinite did not render the ordinance contrary to this section, since the ordinance limited the use of the funds to "the water works system of Ogden City", which was a sufficient compliance with this section. Fjeldsted vs. Ogden City, 35 P. (2d) 825 (1934).

<sup>29</sup>Constitution, Art. X, Sec. 13.

The appropriation of public money or property for any religious worship, exercise, or instruction, or for the support of any ecclesiastical establishment is prohibited. Constitution, Art. I, Sec. 4.



## III. Provisions Affecting Legislation—Continued

## A. Regular Sessions of Legislature—Continued

January next after the election of members of the House of Representatives.<sup>30</sup>

(2) No regular session of the Legislature \* \* \* shall exceed sixty days, except in cases of impeachment.<sup>31</sup> \* \* \*

## B. Special Sessions of Legislature

(1) On extraordinary occasions, the Governor may convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature is to be convened, and it shall transact no legislative business except that for which it was especially convened, or such other legislative business as the Governor may call to its attention while in session.<sup>32</sup> \* \* \*

(2) \* \* \* No special session shall exceed thirty days,<sup>33</sup>  
\* \* \*

## C. Powers of Initiative and Referendum

\* \* \* The legal voters or such fractional part thereof, of the State of Utah as may be provided by law, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people for approval or rejection, or may require any law passed by the Legislature (except those laws passed by a two-thirds vote of the members elected to each house of the Legislature) to be submitted to the voters of the State before such law shall take effect.

The legal voters or such fractional part thereof as may be provided by law, of any legal subdivision of the State, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people of said legal subdivision for approval or rejection, or may require any law or ordinance passed by the law making body of said legal subdivision to be submitted to the voters thereof before such law or ordinance shall take effect.<sup>34</sup>

<sup>30</sup>Constitution, Art. VI, Sec. 2.

<sup>31</sup>Constitution, Art. VI, Sec. 16.

<sup>32</sup>Constitution, Art. VII, Sec. 6.

The Legislature may enact legislation relating to a matter called to its attention by the Governor while in special session, although not stated in the proclamation convening the special session. State vs. Tweed, 63 U. 176, 224 P. 443 (1924).

<sup>33</sup>Constitution, Art. VI, Sec. 16.

<sup>34</sup>Constitution, Art. VI, Sec. 1, as amended (1900).



## III. Provisions Affecting Legislation—Continued

## D. Legislative Enactment

(1) All laws of a general nature shall have uniform operation.<sup>35</sup>

(2) The Legislature is prohibited from enacting any private or special laws in the following cases: \* \* \*

8. Assessing and collecting taxes. \* \* \*

11. Regulating county and township affairs. \* \* \*

18. \* \* \* In all cases where a general law can be applicable, no special law shall be enacted.<sup>36</sup>

\* \* \*

(3) Except general appropriation bills, and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.<sup>37</sup>

(4) All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the Legislature by a vote of two-thirds of all the members elected to each house, shall otherwise direct.<sup>38</sup>

(5) Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor; if he approve, he shall sign

<sup>35</sup> Constitution, Art. I, Sec. 24.

<sup>36</sup> Constitution, Art. VI, Sec. 26.

<sup>37</sup> Constitution, Art. VI, Sec. 23.

"The Courts are, however, unanimous with respect to the following general rule to be observed: (1) That the constitutional provision now under consideration (this section) should be liberally construed; (2) that the provision should be applied so as not to hamper the lawmaking power in framing and adopting comprehensive measures covering a whole subject, the branches of which may be numerous, but where all have some direct connection with or relation to the principal subject treated; (3) that the constitutional provision should be so applied as to guard against the real evil which it was intended to meet; (4) that no hard and fast rule can be formulated which is applicable to all cases \* \* \*." State ex rel. Edler vs. Edwards, 34 U. 13, 95 P. 367, 368 (1908). Same language quoted with approval: Baker vs. Department of Registration, 78 U. 424, 3 P. (2d) 1082 (1931).

"An act which contains two or more subjects, only one of which is expressed in its title, is void only as to the subject not included in the title. \* \* \* It is only where a bill contains two separate subjects, both of which are expressed in its title, that the entire act must fail." Riggins vs. District Court of Salt Lake County, 51 P. (2d) 645, 650 (1935).

<sup>38</sup> Constitution, Art. VI, Sec. 25.

The subordinate clause introduced by the conjunction "unless" was intended to modify both of the clauses preceding it, and where it was provided that a statute should take effect upon approval, it became operative immediately on approval, without previous publication. State vs. Reynolds, 24 U. 29, 66 P. 614 (1901).



## III. Provisions Affecting Legislation—Continued

## D. Legislative Enactment—Continued

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,<sup>39</sup>

\* \* \*

## IV. Constitutional Amendment or Revision

## A. By Proposal of Legislature or People

Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State, for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately.<sup>40</sup>

## 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 such election, shall vote

<sup>39</sup>Constitution, Art. VII, Sec. 8.

This section further provides that a bill may be passed over the Governor's veto by a vote of two-thirds of the members elected to each house. If the Governor does not return a bill within five days, Sundays excepted, it becomes a law, unless the Legislature by its final adjournment prevents such a return, in which case it shall be filed in the office of the Secretary of State with the Governor's objections within ten days after such adjournment, or become a law. The Governor may veto one or more items of an appropriation bill, in which case these items shall be treated like bills vetoed as a whole.

<sup>40</sup>Constitution, Art. XXIII, Sec. 1.

The Secretary of State need not submit to the people an initiative petition presenting an amendment to the Constitution, since a constitutional amendment cannot be submitted by an initiative method but only in the manner provided by this section. *White vs. Welling*, 57 P. (2d) 703 (1936).

Under this section providing that proposed amendments to the Constitution shall be entered on the journals of the two houses, it is not necessary to enter a proposed amendment upon the journals in full, but entry of an identifying reference is sufficient. *Lee vs. Price*, 54 U. 474, 181 P. 948 (1919).



## IV. Constitutional Amendment or Revision—Continued

## B. By Constitutional Convention—Continued

For a convention, the Legislature, at its next session, shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the Legislature.<sup>41</sup>

(2) No Constitution, or amendments adopted by such convention, shall have validity until submitted to, and adopted by, a majority of the electors of the State voting at the next general election.<sup>42</sup>

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<sup>41</sup>Constitution, Art. XXIII, Sec. 2.

<sup>42</sup>Constitution, Art. XXIII, Sec. 3.



