

The Role of the Legislature

Creating Statutory Law

K. Virginia (“Ginger”) Aldrich





Nix. V. Hedden

Legislative Power

Montana Constitution

Article III, sec 1:

Separation of powers. The power of the government of this state is divided into three distinct branches—legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Article V, sec. 1:

Power and structure. The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum.

Legislative Power

Montana Constitution

Article V, sec. 11.

Bills. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

“An Act Amending Section 11-1202, R.C.M.1947, to Increase the Monetary Limitation on Purchases.”

Be it enacted by the Legislative Assembly, of the State of Montana . . .

. . .

~~“All necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of this act.”~~

Montana Constitution

Article V, sec. 12:

Local and special legislation. The legislature shall not pass a special or local act when a general act is, or can be made, applicable.



The legislator is like the navigator of a ship on the high seas. He can steer the vessel on which he sails, but he cannot alter its construction, raise the wind, or stop the waves from swelling beneath his feet.

- *Alexis de Toqueville, 1835*

