

Anhang 2: „Wohlfahrtsstaatliche Bestimmungen“ in den Verfassungen der Bundesstaaten der Vereinigten Staaten von Amerika

Alabama

Article IV, Section 88 – Counties to provide for maintenance of the poor

It shall be the duty of the legislature to require the several counties of this state to make adequate provision for the maintenance of the poor.

Arkansas

Const. Amd. 34, Section 1 – Labor Union Membership – Discrimination prohibited

No person shall be denied employment because of membership in or affiliation with or resignation from a labor union, or because of refusal to join or affiliate with a labor union; nor shall any corporation or individual or association of any kind enter into any contract, written or oral, to exclude from employment members of a labor union or persons who refuse to join a labor union, or because of resignation from a labor union; nor shall any person against his will be compelled to pay dues to any labor organization as a prerequisite to or condition of employment.

Florida

Art I, Section 6 - Right to work.

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

Hawaii

Article IX, Section 3 – Public Assistance

The State shall have the power to provide financial assistance, medical assistance and social services for persons who are found to be in need of and are eligible for such assistance and services as provided by law.

Idaho

Article X, Section 1 – State to Establish and Support Institutions.

Educational, reformatory, and penal institutions, and those for the benefits of the insane, the 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.

Indiana

Article IX – State Institutions.²

Section 1. It shall be the duty of the General Assembly to provide, by law, for the support of institutions for the education of the deaf, the mute, and the blind; and for the treatment of the insane.

[...]

Section 3. The counties may provide farms, as an asylum for those persons who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society.

2 Beide Paragraphen wurden zuletzt am 6. November 1984 novelliert.

Kansas

Article 7 – Public Institutions and Welfare

§ 1: Benevolent institutions. Institutions for the benefit of mentally or physically incapacitated or handicapped persons, and such other benevolent institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be prescribed by law.

§ 4: Aged and infirm persons; financial aid; state participation. The respective counties shall provide, as may be prescribed by law, for those inhabitants who, by reasons of age, infirmity or other misfortune, may have claims upon the aid of society. The state may participate financially in such aid and supervise and control the administration thereof.

§ 5: Unemployment compensation; old-age benefits; taxation. The state may provide by law for unemployment compensation and contributory old-age benefits and may tax employers and employees therefor; and the restrictions and limitations of section 24 of article 2³, and section 1 of article 11⁴ of the constitution shall not be construed to limit the authority conferred by this amendment. No direct ad valorem tax shall be levied on real or personal property for such purposes.

§ 7: Tax levy for certain institutions. The legislature may levy a permanent tax for the creation of a building fund for institutions caring for those who are mentally ill, retarded, visually handicapped, with a handicapping hearing loss, tubercular or for children who are dependent, neglected or delinquent and in need of residential institutional care or treatment and for institutions primarily designed to provide vocational rehabilitation for handicapped persons, and the legislature shall apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Nothing herein contained shall prevent such further appropriation by the legislature as may be deemed necessary from time to time for the needs of said charitable and benevolent institutions. Nothing in this amendment shall repeal any statute of this state enacted prior to this amendment, and any levy, apportionment or appropriation made under authority of this section before its amendment, and any statute making the same, shall remain in full force and effect until amended or repealed by the legislature.

Mississippi

Article 4, Section 86. Care of insane and indigent sick.

It shall be the duty of the legislature to provide by law for the treatment and care of the insane; and the legislature may provide for the care of the indigent sick in the hospitals in the state.

Montana

Article XII, Section 3. Institutions and assistance.

(1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature may provide such economic assistance and social rehabilitative services for those who, by reason of age, infirmities, or misfortune are determined by the legislature to be in need.

(4) The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services.

Nevada

Article 13, Section 1. Institutions for insane, blind, deaf and dumb to be fostered and supported by state.

3 Constitution of the State Kansas, Article 2, § 24: Appropriations. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law.

4 Constitution of the State Kansas, Article 11, § 1: System of taxation; classification; exemption.

Institutions for the benefit of the Insane, Blind and Deaf and Dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.⁵

New York

Article XVII, Section 1. [Aid, care and support of needy persons]

The aid, care and support of the needy are public concerns and shall be provided by the State and by each of its subdivisions, and in such manner and such means, as the legislature may from time to time determine.⁶

North Carolina

Article XI, Section 4. Welfare Policy; board of public welfare.

Beneficent provision of the poor, the unfortunate and the orphan is one of the first duties of a civilized and Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

Oklahoma

Article XVII, Section 3. Provisions for persons in need.

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 the county.

Article XIII – Miscellaneous - Labor

Section 1 – Hours of Labor on Public Work

Eight hours shall constitute a day's work in all cases of employment by and on behalf of the State or any county or municipality.

Section 1A - Participation in labor organization as condition of employment prohibited⁷

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- 5 Bis 1937 enthielt Article 13 der Verfassung des Staates Nevada noch einen dritten Abschnitt mit dem Wortlaut: Section 3. County public welfare. The respective counties of the State shall provide as may be prescribed by law, for those inhabitants who, by reason of age and infirmity or misfortunes, may have claim upon the sympathy and aid of society." Diese mit art. 7 § 4 der Verfassung des Staates Kansas identische Bestimmung wurde durch eine Volksabstimmung am 17. März 1937 außer Kraft gesetzt.
- 6 Zur Entstehungsgeschichte dieser Verfassungsbestimmung siehe nur *Tucker v. Toia*, 371 N.E.2d 449, 451 (N.Y. 1977). Zur Auslegung der Norm siehe auch jüngst *Aliessa ex rel. Fayad v. Novello*, 754 N.E.2d 1085, 1092 (N.Y. 2001): "As this provision demonstrates, care for the needy is not a matter of "legislative grace", it is a constitutional mandate. Of course, New York is not required to meet every legitimate need of every needy person. Rather, the Legislature may determine who is "needy" and allocate the public dollar accordingly." Und weiter unter Verweis auf *Tucker*: "This Court however, has interpreted article XVII, § 1 as prohibiting the Legislature from „refusing to aid those whom it has classified as needy."
- 7 Teile der Bestimmung unterliegen der ausschließlichen Gesetzgebungskompetenz des *federal governments* bzw. sind durch den Kongress abschließend geregelt worden („preempted“): "Although the district court concluded that the majority of the provisions of article XXIII, § 1A were not preempted by the relevant federal labor laws, it did conclude that § 1A(B)(5) and § 1A(C) were preempted by the National Labor Relations Act ("NLRA"), 29 USC § 151 et seq., and the Labor Management Relations Act ("LMRA"), 29 USC § 141 et seq. Having so determined, the district court proceeded to analyze whether the non-preempted portions of § 1A were severable from § 1A(B)(5) and § 1A(C). The district court concluded that the core provisions of article XXIII, § 1A were contained in § 1A(B)(1)-(4) and, applying Okla. Stat. tit. 75, § 11a and its pre-

A. As used in this section, "labor organization" means any organization of any kind, or agency or employee representation committee or union, that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

B. No person shall be required, as a condition of employment or continuation of employment, to:

1. Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
2. Become or remain a member of a labor organization;
3. Pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;
4. Pay to any charity or other third party, in lieu of such payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or
5. Be recommended, approved, referred, or cleared by or through a labor organization.

C. It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization unless the employee has first authorized such deduction.

D. The provisions of this section shall apply to all employment contracts entered into after the effective date of this section and shall apply to any renewal or extension of any existing contract.

E. Any person who directly or indirectly violates any provision of this section shall be guilty of a misdemeanor.

Article XXV – Social Security

Section 1 - Relief and care of needy aged and disabled persons--Co-operation with Federal plan.

(1) In order to promote the general welfare of the people of the State of Oklahoma and for their protection, security, and benefit, the Legislature and the people by initiative petition are hereby authorized to provide by appropriate legislation for the relief and care of needy aged persons who are unable to provide for themselves, and other needy persons who, on account of immature age, physical infirmity, disability, or other cause, are unable to provide or care for themselves; Provided, the Legislature or the people by initiative petition, are further authorized, in co-operation with and under any plan authorized by the Federal Government for State participation, to provide by appropriate legislation for the relief and care of aged or needy persons.

(2) The levy of taxes, other than ad valorem taxes, necessary to carry into effect legislation enacted pursuant thereto, is hereby authorized.

Section 2 – Department of Public Welfare.

For the purpose of effectively administering and carrying into execution all laws enacted pursuant to the authority granted in Section One hereof, there is hereby created a Department of Public Welfare. Said Department of Public Welfare is hereby charged with the duty and responsibility of faithfully administering and carrying into execution all laws enacted pursuant to the authority granted in Section One hereof and shall perform such other duties as may, from time to time, be prescribed by law.

Section 3 – Oklahoma Public Welfare Commission.

(1) The Department of Public Welfare shall be under the control of a commission to be known as the Oklahoma Public Welfare Commission, composed of nine members appointed by the Governor and selected on the basis of recognized interest in and knowledge of the problems of public welfare. Each member of the Commission shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a qualified elector of Oklahoma at least five years next preceding his or her appointment. Members of the Commission or any person employed by and working under direction of said Commission may be of either sex. Immediately upon the taking effect of this Article, the Governor shall appoint the members of said Commission for terms of office as follows: One member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four

sumption of severability, further concluded that the invalidation of § 1A(B)(5) and § 1A(C) would not hinder the enforcement of those core provisions. Accordingly, the district court determined that § 1A(B)(5) and § 1A(C) were severable from the remaining portions of § 1A.”; *Transport Workers Union of America v. Keating*, 66 Fed.Appx. 768, 769 f.

Anhänge

years, one member for a term of five years, one member for a term of six years, one member for a term of seven years, one member for a term of eight years and one member for a term of nine years. Except as above designated, the term of office of the members of said Commission shall be nine years or until their successors are appointed and qualified. The Governor shall designate one member of the Commission as chairman. Members of the Commission shall receive no compensation for their services but shall be allowed necessary traveling and other expenses actually incurred while in the performance of their official duties. The Governor shall have the power to fill vacancies on the Commission for the remainder of the unexpired term.

(2) No member of said Commission shall be subject to removal by the Governor, but any such member shall be removable only in the manner and for the causes now provided in Article 2, Chapter 20, Oklahoma Statutes 1931, for the removal of officers not subject to impeachment. The venue of actions for removal shall be in Oklahoma County.

Section 4 – Director of Public Welfare.

(1) It shall be the duty of the Commission to select a Director of Public Welfare, who shall not be a member of the Commission, and who shall serve as the executive and administrative officer of the Department of Public Welfare. The Director shall be appointed wholly on the basis of ability, training and experience qualifying him or her for public welfare administration. The Director shall serve at the pleasure of the Commission. The salary of the Director shall be fixed by the Commission.

(2) The Commission shall formulate the policies, and adopt rules and regulations for the effective administration of the duties of the Department. All executive and administrative duties and responsibilities of the Department shall be discharged by the Director, subject to the approval of the Commission. Subject to the control of the Commission, the Director shall have the power and it shall be his duty to employ personnel of the Department, prescribe minimum standards of qualifications for such personnel and conduct examinations before employment, formulate salary schedules for classified service based upon training, experience and general ability of persons selected for positions in the Department or any institutions or activities under the supervision of the Department.

Section 5 – Effect of legislation contemporaneously adopted.

Any legislation under the authority herein granted, adopted contemporaneously with the adoption of this amendment, shall have the same force and effect as if same had been initiated and adopted subsequent to the adoption of this amendment.

South Carolina

Article XII, Section 1. Matters of public concern; General Assembly to provide appropriate agencies.

The health, welfare, and safety of the lives and property of the people of this State and the conservation of its natural resources are matters of public concern. The General Assembly shall provide appropriate agencies to function in these areas of public concern and determine the activities, powers, and duties of such agencies.

Texas

Article IX, Section 14. County poor house and farm.

Each county in the State may provide, in such manner as may be prescribed by law, a Manual Poor House and Farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

Wyoming

Article 7, Section 18. Establishment of institutions.

Such charitable, reformatory and penal institutions as the claim of humanity and the public good may require, shall be established and supported by the state as a manner as the legislature may prescribe. They shall be supervised as prescribed by law.

Anhang 3: Arbeitslosigkeit in den U.S.A. und der BRD

a) Arbeitslosigkeit in den U.S.A. 1923 bis 2006

Jahr	Arbeitslosenquote in Prozent	Jahr	Arbeitslosenquote in Prozent
1923-1929	Durchschnittlich 3,3	1968	3,6
1930	8,9	1969	3,5
1931	15,9	1970	5,0
1932	23,6	1971	6,0
1933	24,9	1972	5,6
1934	21,7	1973	4,9
1935	20,1	1974	5,6
1936	17,0	1975	8,5
1937	14,3	1976	7,7
1938	19,0	1977	7,1
1939	17,2	1978	6,1
1940	14,6	1979	5,9
1941	9,9	1980	7,2
1942	4,7	1981	7,6
1943	1,9	1982	9,7
1944	1,2	1983	9,6
1945	1,9	1984	7,5
1946	3,9	1985	7,2
1947	3,9	1986	7,0
1948	3,8	1987	6,2
1949	6,1	1988	5,5
1950	5,2	1989	5,3
1951	3,3	1990	5,6
1952	3,0	1991	6,9
1953	2,9	1992	7,5
1954	5,6	1993	6,9
1955	4,4	1994	6,1
1956	4,1	1995	5,6
1957	4,3	1996	5,4
1958	6,8	1997	4,9
1959	5,5	1998	4,5
1960	5,5	1999	4,2
1961	6,7	2000	4,0
1962	5,6	2001	4,7
1963	5,6	2002	5,8
1964	5,2	2003	6,0
1965	4,5	2004	5,5
1966	3,8	2005	5,1
1967	3,8	2006	4,7*

Tabelle 15: Arbeitslosenquote in den U.S.A. 1923-2006

Datenquellen: 1923-1947: *Galenson*, The United States, S. 27, Table 1.12; 1948-2006: *DOL-BLS*, <http://www.bls.gov>.

* = Januar bis einschließlich Juli.