

State of Michigan
CONSTITUTIONAL CONVENTION
1961

OFFICIAL RECORD



FRED I. CHASE
Secretary of the Convention

AUSTIN C. KNAPP
Editor
LYNN M. NETHAWAY
Associate Editor

on our part to leave to the discretion of the legislature the power to invest these pension funds. I therefore oppose the amendment.

CHAIRMAN MARTIN: Mr. Stafseth.

MR. STAFSETH: I also was a member of the committee, and I know one of the most complicated things we had was to try and figure out if we could impose any restrictions. I remember one thing in particular—not getting into retirement funds—we got down to where we were talking about how we would handle moneys in perpetual funds for cemeteries, and this got to be complicated. It became very obvious to us that we had to have something flexible, so we left it to the power of the legislature. So I support the committee report and oppose the Wanger amendment.

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: Mr. Chairman, being a member of the board of trustees of the pension system of Detroit, I have discussed this with several people that deal with our investments. And there have been some who appeared before the committee. They feel that this is a step in the right direction. I therefore oppose the Wanger amendment.

CHAIRMAN MARTIN: Mr. Romney.

MR. ROMNEY: Mr. Chairman, the question has been raised as to funds that are managed by employee organizations as well as management of firms, and I can state on the basis of personal knowledge that most of those funds now provide the type of flexibility that we are suggesting here for these public retirement funds. Most of them do include some common stocks of a high grade and this is a result of the joint judgment of the unions and the management people involved.

It does seem to me that what Mr. Goebel has just said, and others, is right, and that we should support the committee in providing this flexibility to protect the long range interest of public employees.

CHAIRMAN MARTIN: The question is on the Wanger amendment. Mr. Karn.

MR. KARN: Mr. Chairman, I would like to call attention to the fact that I would think a substantial percentage of the large, major trust companies today recommend in the case of pension funds a flexibility that is granted by this provision, and I would also want to object to the Wanger amendment on that account.

CHAIRMAN MARTIN: Mr. Wanger.

MR. WANGER: Mr. Chairman, in light of the confusion which the language which I proposed has caused, I would like to withdraw this amendment. I am very much opposed to the state getting into the control of any private enterprise, regardless of whether it is a savings and loan organization or anything else. But it was not my intent to put something in which would unduly restrict the investment, and in light of the people who have spoken, I think probably that the flexibility would not be abused.

CHAIRMAN MARTIN: The amendment is withdrawn. Are there any other amendments to the section? If not, it will be passed.

Section d is passed.

The question now is on the body of the proposal. Are there any amendments to the body of the proposal? If not, it will be passed.

Committee Proposal 37 is passed.

The secretary will read item 27 on your calendar.

SECRETARY CHASE: Item 27 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 40**, A proposal with reference to public retirement systems. Amends article X by adding a section.

Following is Committee Proposal 40 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. **THE ACCRUED FINANCIAL BENEFITS OF EACH PENSION PLAN AND RETIREMENT SYSTEM OF THE STATE AND ITS POLITICAL SUBDIVISIONS SHALL BE A CONTRACTUAL OBLIGATION THERE-**

OF, WHICH SHALL NOT BE DIMINISHED OR IMPAIRED THEREBY.

ALL SUCH BENEFITS ARISING ON ACCOUNT OF SERVICE RENDERED IN EACH FISCAL YEAR SHALL BE FUNDED DURING THAT YEAR AND SUCH FUNDING SHALL NOT BE USABLE FOR FINANCING UNFUNDED ACCRUED LIABILITIES.

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 40:

The problem here is extremely difficult. Any public system that is set up should have put into it each year sufficient money to meet all of the liability accrued during that year. If that is done from the very beginning, the system is not an excessive burden; but when you go for years without putting in enough money to cover the liability accruing each year, then to try to catch up for the past deficiency becomes a problem of magnitude. On the state level the 2 retirement systems for public school employees are pitiful examples of what results when the state simply puts in for a long period just enough money to meet the payments for retirees due each year.

It is estimated that it would take \$424,688,598.00 to make the outstate employees' system actuarially sound and \$151,679,334.00 to make the Detroit system actuarially sound. This kind of money is not easily found. We were asked to retain in the constitution, section 23 of article X, the constitutional guarantee of not less than 5 per cent, nor more than 7½ per cent of the payrolls from the schools' share of the sales tax. This was not done. The 7½ per cent does not even meet the liability accruing during each year, to say nothing about catching up for the past. To meet the accrued and accruing liability each year would take about 12¼ per cent of the payroll for the outstate system and 15½ per cent for the Detroit system, so instead of putting in any fixed percentage, we have provided for these 2 systems, and all others—state or municipal—a requirement that in each fiscal year the accruing liability shall be funded during that year, thus keeping any of these systems from getting farther behind than they are now.

This is not all that ought to be done but we think it is the maximum requirement that should be written into the constitution. Fortunately many of the systems, and particularly those starting in recent years, have kept sound from the very beginning.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, we didn't want to disappoint anybody by going through a session without a battle. Let me assure you that there are more coming up.

At the time of the 1908 constitution, retirement funds for public employees were not a problem. There was therefore no section in the finance article dealing with them. Now they are a problem, in tremendous number, and with tremendous amounts of money involved; and situations have arisen in some of them that seem to make it desirable that there be some protections and some restrictions in the constitution. We have therefore proposed a new section, and for a detailed explanation of it I again yield to Mr. Van Dusen.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman and members of the committee, this proposal by the committee is designed to do 2 things: first, to give to the employees participating in these plans a security which they do not now enjoy, by making the accrued financial benefits of the plans contractual rights. This, you might think, would go without saying, but several judicial determinations have been made to the effect that participants in pension plans for public employees have no vested interest in the benefits which they believe they have earned; that the municipalities and the state authorities which provide these plans provide them as a gratuity, and therefore it is within the province of the municipality or the other public employer to

Explanation—Matter within [] is stricken, matter in capitals is new.

terminate the plan at will without regard to the benefits which have been, in the judgment of the employees, earned.

Now, it is the belief of the committee that the benefits of pension plans are in a sense deferred compensation for work performed. And with respect to work performed, it is the opinion of the committee that the public employee should have a contractual right to benefits of the pension plan, which should not be diminished by the employing unit after the service has been performed. Now, this does not mean that a municipality or other public employing unit could not change the benefit structure of its pension plan so far as future employment is concerned. But what it does mean is that once an employee has performed the service in reliance upon the then prescribed level of benefits, the employee has the contractual right to receive those benefits under the terms of the statute or ordinance prescribing the plan. This is the first section. It confers the contractual right. It should confer upon public employees a considerably greater degree of security with respect to the knowledge that they will receive the benefits when the time comes.

Now, the second provision of this proposal deals with the financial aspects of the maintenance of pension plans. There are 2 kinds of problems in the funding of any pension plan. One is past service benefits which have not been adequately funded. And in the case of many of our public employee retirement systems, years have gone by when insufficient money has been put into the fund to take care of the future benefits which would in due course accrue to persons retiring from public employment.

The committee recognizes that if the proposal were to tell every public employing unit right now that you must put into these funds enough to take care of all of your sins of omission in the past, this would create a financial burden on municipalities and on the state which would be overwhelming, and which would be totally disruptive to the financial picture of the state for the immediately foreseeable future, and without any attendant real benefit to any of our citizens, including those who are participating in retirement plans. However, the committee did believe that it would be appropriate for the constitution to prescribe some ground rules so far as the future is concerned, and therefore the second paragraph of this proposal requires every public employing unit providing a pension plan or retirement system to currently fund current service benefits.

In other words, in each year, when a certain number of employees are employed who can be expected at some future point to retire and draw upon the fund for the benefits which would be contractually theirs, in each year it will be incumbent, under this provision, upon the employing unit to put into the fund enough money to provide those benefits when they accrue. This is designed to take care of not any one specific public employees' retirement fund, of which there are many in the state, but to take care of all of them: the school employees' retirement funds, the state employees' retirement funds, the police and firemen's funds, the probate judges' retirement funds, and so on. All of the pension plans and retirement systems maintained by the state and its political subdivisions will be subject, if this proposal is adopted, to the requirement that in every year the public employer must put into the fund enough money to currently fund the benefits attendant upon service rendered by its employees in that year. This is as far as we believe we can reasonably go in mandating municipalities to do what they should have been doing for many years past, but which they have not been doing for many years past.

We believe that this constitution must be a forward looking document; that it must take cognizance of the problem; that it must spell out for the future the manner in which these funds should be managed, so that our children will not, 50 years hence, suffer from the fact that we failed to put in enough money to take care of the benefits attendant upon the service currently performed by public employees.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I think the opening sentence of the committee's supporting reasons, "The problem here is extremely difficult," is probably the understatement of the session, as far as I am concerned.

I might say, Mr. Chairman, that while this proposal was not referred for concurrence to the committee on education, the committee nevertheless felt, because it did affect section 23 of article X, over which we do have concurrent jurisdiction, that we should consider the matter. The question was raised for the first time at our committee meeting only the day before yesterday. In view of the absence, as most of the committee felt, of sufficient information to reach a decision, the matter was laid on the table before the committee. Nevertheless, many members of the committee on education felt extreme reservations about the second paragraph of the particular proposal. I think there was general acceptance of the first paragraph. The amount, according to the committee on finance and taxation, of nearly \$600 million to make the 2 retirement systems for public school employees actuarially sound came to many of us as a very considerable shock.

My question, specifically, of the gentleman from Birmingham, Mr. Chairman, would be this. First of all, I might say, as I explained, the committee on education at the moment has no suggestions to make with respect to this proposal, although naturally we reserve the right on future readings to offer amendments if it seems to us desirable. But in view of the fact, Mr. Van Dusen, that the 7½ per cent which is provided for in the present constitution has been taken from the school aid funds, what would be the effect on the school aid funds if the second paragraph were adopted, in view of your committee's statement that merely to meet the accrued and accruing liability will require 12¼ per cent outstate and 15½ per cent in Detroit? I would like to know whether you can give the committee any idea of what the effect would be on the school aid funds—whether this money would be entirely from the school aid funds, as is now the case with the 7½ per cent.

MR. VAN DUSEN: Mr. Chairman and Mr. Bentley, the legislature could—and here we have to couple this proposal with the one which follows—take all or any part of the money required to be allocated for school employees' retirement systems from the school aid fund. The only requirement of this proposal is that the legislature would have to provide enough money to fund current service benefits. That is substantially the 7½ per cent, although just a little bit more, I think, than the 7½ per cent currently taken from the school aid fund under the present section 23 of article X. But this would leave the legislature free to take it all from the school aid fund or to take any part of it from the school aid fund. The source would not be material. The constitutional mandate would be that the current service benefits be currently funded, something which has not occurred over the history of the school employees' retirement fund since 1917.

MR. BENTLEY: One additional question, Mr. Van Dusen, if I may. Assuming that the legislature continued to deduct from the school aid fund the 7½ per cent which is now constitutionally required, then, do I understand it that in the Detroit area, for example, the legislature would have to find the remaining 7 per cent or 8 per cent actually from sources other than the school aid fund? Does the gentleman think that the legislature really could provide this with our present fiscal situation the way it is in the state?

MR. VAN DUSEN: I think the answer, Mr. Bentley, is yes. The constitution presently provides, with respect to the sales tax, that not less than 5 or more than 7½ per cent of the school payrolls be taken from the 2 cents of the sales tax which is earmarked for schools and set aside for retirement systems. This is designed to give to those particular public employee retirement systems a protection similar to but not as great as that provided by the general proposal here recommended by the committee.

The committee believes that because we should deal with this problem in the large—not just aiming at one particular public employee retirement system, but dealing with all public employee retirement systems as a whole—the general provision is the appropriate one to adopt. But the committee also feels that in retaining the earmarked funds for school districts, it is also appropriate to permit the legislature to continue to use a portion of the earmarked sales tax funds for retirement purposes, and our proposal so states without limitation as to amount.

That would mean that the legislature would be free, as I said earlier, to take all of the retirement money required by this proposal from the school aid fund, or it could take a part. And since the legislature has in each of the last 4 years been appropriating to school districts and to retirement systems substantially greater sums than those which are currently constitutionally earmarked for that purpose, I don't believe that this provision would have any effect on a lower limit with respect to funds going into retirement systems. In effect, it would increase them.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I thank the gentleman for his presentation. I have one more question. It will be very brief. That is this: I assume, Mr. Van Dusen, that the 12½ per cent and the 15½ per cent figures contained in this committee report are based on present salary scales both outstate and in the Detroit area. If those salary scales in either system were substantially increased, I presume that those figures which you have given here would have to be revised upward?

MR. VANDUSEN: I think probably not, Mr. Bentley, because they are percentages of payroll.

MR. BENTLEY: I thank the gentleman. Mr. Chairman, as I said earlier, there were members of the committee on education that did have some reservations on this question. I hope that if any of them feel compelled to speak, they will take this opportunity to do so.

CHAIRMAN MARTIN: May the Chair say he has noted the various people who want to speak and listed their names, and he will call on them in due course. So you can be seated if you want to.

Mr. Brake.

MR. BRAKE: I was going to emphasize, with Mr. Bentley, the fact that as to the Detroit system, our second paragraph requires approximately twice what is being put into their fund by the state at the present time; and as to the outstate system, substantially more. I thought the other delegates might be interested in the specific figures that shocked Mr. Bentley and his committee and shocked us. You can get different figures from different people when you get to these retirement systems. It is a complicated accounting system. But the figures coming from Jerry Gable, of Detroit, who is the actuary employed by both systems, are these: to make the outstate public school employees' fund actuarially sound would require \$366,517,242; to make the Detroit system actuarially sound would require \$148,975,941.

Always, when you mention figures like that, some teacher begins to get uneasy and thinks she or he is not going to be paid. It doesn't mean that at all. These systems have been paying, and they will continue to pay, and there are too many voters involved for the legislature to ever forget how many voters are involved as far as meeting the payments. This is not talking about meeting the payments. It is talking about better preparing the fund so it will be nearer sound, and our requirement is that they at least go no further behind than they now are.

CHAIRMAN MARTIN: Mr. Stafseth.

MR. STAFSETH: I think there's one thing that the members of the committee of the whole—and the convention—should consider in this problem: that probably this is the greatest area in our government today in the state of Michigan and at the federal level of where we are having what we call "back door" spending. As Mr. Bentley pointed out, the accrued benefits that have not been funded or paid is around \$600 million. Our state indebtedness is around \$100 million. All we are saying, in effect, in this proposal is: one, that the retirement that was promised any employee which he has lived long enough to earn shall not be impaired or diminished; and two, that from now on all retirement funds that are promised by employers shall be funded properly. In other words, they should put enough money in there so when they retire the money is there. And there was a very specific purpose for this. I was one of the ones that pushed it. I wanted employers, legislative bodies and city councils to be very aware of what they were spending when they gave a person, a public employee, a retirement program. In other words, how much did it cost per year?

Now, what we have done in this paragraph is to say, also, that this indebtedness of around \$600 million or maybe more doesn't have to be paid up tomorrow; all we say is it has to be paid, and that's up to the various governing bodies to figure out. But from now on any governmental body cannot avoid paying for a retirement fund that they promise an employee. They've got to make those payments annually, on time.

CHAIRMAN MARTIN: Mr. Rush.

MR. RUSH: Mr. Chairman, as a member of both the education and the finance and taxation committees, I was deeply concerned about the wording of this section. Mr. Brake and Mr. Stafseth have both said some of the things that I intended to say. But I believe the wording of this section guarantees to our teachers and other recipients of these funds much more than the wording in the old constitution. If this is followed by the legislature, it will guarantee almost twice what the old constitution provided, a ceiling of 7½ per cent.

We have had the wording of this section checked by Mr. Christie and other managers of funds and they have felt that it is adequate and provides what is necessary. I just wanted to add that. I support the report of the committee on finance and taxation.

CHAIRMAN MARTIN: Mr. Erickson.

MR. ERICKSON: Mr. Chairman, I believe this is a very healthy provision in the constitution. In the past we have noticed many pension plans that have gotten out of hand; the employees have been able to get too high a pension; and in a few years they've found that the pension plans might run 25 to 30 per cent of the payroll.

I have just one question to ask the committee. That is in regard to the statute for circuit judges. I believe that statute provides that no payments can be made from the general fund for the circuit judges' retirement system. I was just wondering what the effect of that would be on this section.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: I'm sure this section would in no way change that. The circuit judges' retirement system, as far as the state is concerned, is financed by making everyone who starts a lawsuit pay into that fund as part of the entry fee of the case in which he pays to the county clerk. This would make no change in it.

CHAIRMAN MARTIN: Mr. Spitler.

MR. SPITLER: I would like to ask Mr. Van Dusen a question. First of all, I would like to say that I think the committee has offered here a sound statement regarding our retirement systems, and I want to say that I will support it. But I do have one question that I would like to ask Mr. Van Dusen. Under the present teachers' retirement, as he has stated, it requires that 7½ per cent of the money collected under the 2 cent sales tax shall be paid over to the retirement fund. That would be done in 6 payments at the time they make the payments to the school districts. The question I have—and it's not just a fear, because during the last few sessions of the legislature an attempt has been made to remove this payment and pass it back to the local school districts.

We have nearly 2,000 school districts. And if the legislature refused to make this appropriation and passed all the 2 cent sales tax back to the local school districts with the intention that they should make these payments, then we would have our retirement fund board dealing with 2,000 school districts, instead of taking the payment out of the funds as it comes into the state, and made over to them in 6 payments. It would be much more costly. It would be difficult as far as accounting is concerned, because of the many different kinds of boards of education that we have and the school districts that we have.

Let me say again that I will support this, and I think it is putting our retirement system on a sound basis. But I do have that question, because it has been introduced in the legislature in the last 2 or 3 sessions.

MR. VANDUSEN: Mr. Chairman and Mr. Spitler, your question, of course, Mr. Spitler, is a sound one. It is not contemplated that this would have that effect. I recognize that to the extent that a school district is the employing and contracting unit, it would share with the state the obligation for making the pension benefits available when due, and would

share with the state the obligation for current funding. But it is an obligation which has increasingly in the past been assumed by the state, and it would be the expectation of the committee that it would continue in that fashion.

CHAIRMAN MARTIN: Mr. Spitler.

MR. SPITLER: Could that be included in the accompanying report, that that is the intention of the committee?

MR. VAN DUSEN: I see no reason, Mr. Spitler, why that couldn't be added. We couldn't, of course, anticipate every question on the floor and cover it. It is now, to the extent that this verbatim record is a part of the proceedings of the convention, expressed as the intention of the committee.

CHAIRMAN MARTIN: Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to ask Mr. Van Dusen a question, and I don't believe it has been answered. In the case of a municipality which presently has a pension plan, if the people of that municipality finally decided they no longer wanted it, would this language in the first paragraph be sufficient to permit them to dispense with the future operation of a pension plan?

MR. VAN DUSEN: Mr. Iverson, there's no question but that a municipality could in the future dispense with its pension plan, so long as it did not in so doing diminish or impair the benefits which had accrued to employees who had performed service in the past.

MR. IVERSON: So that the present language was intended then to protect the accrual of benefits to the time that any municipality might dispense with a pension plan?

MR. VAN DUSEN: That is correct. This was simply designed to put pension benefits earned in public service on the same basis as deferred compensation earned in private employment. It is a contractual right.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, it is my hope that I will be able to clarify the issue here so that there will be no misunderstanding about what is before us. I have a feeling that our discussion of the 7½ per cent retirement requirement in Committee Proposal 39—that is, the earmarking of the sales tax—may have confused the issue a little with regard to Committee Proposal 40. I think we are all in favor of Committee Proposal 40, because it guarantees for the employees who are covered by all public employee pension plans, not just the school plans, that their benefits will be properly funded. And I think it is desirable that we get this proposal passed.

Now, with regard to the 7½ per cent earmarking which is covered under section 23 and which we will take up in Committee Proposal 39, we can at that time decide whether we want to earmark any portion of our funds for this purpose. I think we should agree, first of all, that we want them properly funded, and that is the purpose of Committee Proposal 40. Then, when we get to the other proposal, we can decide whether we want to earmark any money.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman and ladies and gentlemen of the committee, as a member of the committee on finance and taxation, I would like to speak in favor of our committee proposal. I think that most of the reasons for the proposal have been brought out, but I would like to touch upon them very briefly. One of the reasons that has been expressed for making the accrued benefits contractual is the fact that the supreme court decisions have ruled that the pension or retirement systems are a gratuity. And this has been held true today in spite of the fact that we have our concept of deferred compensation. And, many of you who are living in the metropolitan areas, if you will pick up the newspapers over the weekend and read the ads by the Detroit civil service or the Wayne county civil service, or any of the other municipalities, you will find that in their ads they play up the aspect of liberal pensions. And there is no question that when an employee today takes employment with a governmental unit, he does so with the idea that there is a pension plan or retirement system involved. And, in order to protect them, we believe that the first paragraph is necessary.

I believe that Mr. Stafseth has already spoken upon the necessity to make the legislative bodies responsible in this area,

and also to prevent "back door" borrowing. Of course, we in the city of Detroit have recently seen an example of this stopped by a ruling of a circuit court judge in demanding that the moneys set aside for the Detroit firemen and policemen's pensions be placed in a fund and not be used for current operating expenditures. Therefore, I favor this proposal.

CHAIRMAN MARTIN: Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman and fellow delegates, as the discussion has developed, I think I see what the words mean. When I first read it I was completely lost in the bog of antecedents. Now, my only reason for arising at this time to discuss this is to present a plea that the section be written in such a way that I would not have difficulty in trying to explain what it means to somebody who would ask me. One of the criticisms I've heard of the 1908 constitution was that some people couldn't make head nor tail out of it without a lawyer's degree. And as I read this, I feel the same way about this—that this is not an improvement. I found it very heavy reading just trying to follow the thought from beginning to end. I am not here to propose an amendment, because I wouldn't know exactly how to start. I am just wondering if there is some way in which this could be rephrased so as to say the same thing, but be readily comprehensible to the average high school graduate.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: Mr. Chairman, I would like to ask a question, either of Mr. Stafseth or the chairman of the committee, and I believe that his remarks did help clarify this. I speak primarily from ignorance. When the term "the accrued financial benefits" is used, as I understand from Mr. Stafseth, the purpose is to see that instead of using a pay as you go system, there would be a funded system from now on, with some plan to pick up what had not been properly funded. Now, I assume from that that if a governmental unit sets aside so much money for the funding of a pension plan, that that money could not then be used for any other purpose; and if there were an attempt to, the individual employee could use some kind of court action—injunction or mandamus—to prevent that. And, if I'm wrong, I wish the committee chairman or somebody would apprise me.

The second question and the real question that I have is: if the legislative body does not appropriate enough money for proper funding, would there be any way for the employee or the employees' organization to compel the local unit of government, or whoever is responsible, to put aside enough money each year for the proper funding?

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Answering the first part of your question, I think your understanding is entirely correct. It is the intention that we will put in each year enough in every fund to take care of the liability occurring during that year, so it will not go farther and farther behind.

On the second part of your question, there is no way to compel the legislature to appropriate money. There is no way that I know of to compel a city council to raise more money. We have to put some faith in somebody, and this is being put in the legislature.

Now, I would like to say just a word, Mr. Chairman, to what Mr. Shanahan has just said. We could of course enlarge this, and very greatly enlarge it, by putting it into nontechnical language so that a layman could better understand it. The committee has been economical in the use of words. We think that we should be, in the constitution. These words that we have used and that Mr. Shanahan had some trouble in interpreting are the words understood by accountants and actuaries, who will be dealing with this problem; and always, as every lawyer knows, there's more certainty when you use technical, well defined words known to the profession involved, even though they are not quite so familiar to the general public.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, if I may elaborate briefly on Mr. Brake's answer to Mr. Downs' question, I would like to indicate that the words "accrued financial benefits" were used designedly, so that the contractual right of the employee would be limited to the deferred compensation embodied in any pension plan, and that we hope to avoid thereby a pro-

lification of litigation by individual participants in retirement systems talking about the general benefits structure, or something other than his specific right to receive benefits. It is not intended that an individual employee should, as a result of this language, be given the right to sue the employing unit to require the actuarial funding of past service benefits, or anything of that nature. What it is designed to do is to say that when his benefits come due, he's got a contractual right to receive them.

And, in answer to your second question, he has the contractual right to sue for them. So that he has no particular interest in the funding of somebody else's benefits as long as he has the contractual right to sue for his.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: I appreciate Mr. Van Dusen's comments. Again, I want to see if I understand this. Then he would not have a remedy of legally forcing the legislative body each year to set aside the appropriate amount, but when the money did come due this would be a contractual right for which he could sue a ministerial officer that could be mandamus or enjoined; is that correct?

MR. VAN DUSEN: That's my understanding, Mr. Downs.

MR. DOWNS: And there would not be any immunity because of it being a governmental unit?

MR. VAN DUSEN: That's further my understanding.

MR. DOWNS: The other question I have, then: if the legislative body wanted to increase the pension rights, such as lowering the age at which a person would be eligible for benefits, and so on, could an additional contractual right be bestowed, or could that apply only in the future to a new financial system?

MR. VAN DUSEN: Mr. Chairman and Mr. Downs, the more hypothetical the questions get, the tougher the answer is, as I'm sure Mr. Downs appreciates. However, what we are trying to deal with here are those financial benefits which have accrued. Once the employee, by working pursuant to an understanding that this is the benefit structure presently provided, has worked in reliance thereon, he has the contractual right to those benefits which may not be diminished or impaired. As far as his future service is concerned, he remains, as does any other employee, subject to the terms of employment prescribed by his employer.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: May I ask, through the Chair, another question? Then, if I understand this right, if he has the contractual right of, say, retirement at such and such a year, on a certain basis, that could not be diminished? Am I correct on that?

MR. VAN DUSEN: That is correct.

MR. DOWNS: Now, could the other be true? For example, could a cost of living increment or something else be put on to amend that contract, as any other contract could be amended?

MR. VAN DUSEN: Mr. Chairman, I'm not entirely sure I understand Mr. Downs' question.

MR. DOWNS: For example, let's say there were a pension setup that would amount to \$60 a month. Then could the legislative body later on say that this shall be increased 5 per cent because of a cost of living increase? Or would that be a new matter that would either be a gratuity or would have to be established on a new principle?

MR. VAN DUSEN: Certainly there's nothing here to prohibit the employer from increasing the benefit structure. The extent to which the benefit structure having been increased after the employee had completed his service and had retired might create a contractual right would be, I think, beyond the purview of this proposal. This proposal only talks about that which he has earned by working in reliance thereon.

MR. DOWNS: Then this proposal would not limit or expand the other activities by the legislative body?

MR. VAN DUSEN: That's correct.

MR. DOWNS: Thank you very much.

CHAIRMAN MARTIN: Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, a question to one of the committee, if I may. If a new fund were created by a present political subdivision, or should in the future a new political subdivision be created and want to set up a pension fund, would they have to that first year put in funds sufficient to

take care of past service? If not, how would past service funds be accumulated?

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: The answer, Mr. Chairman, to Mr. Shackleton's first question is no, they would not have to immediately fund past service benefits. They would have to put in enough to currently fund current service benefits. And I would think that they would not consider the adoption of such a plan without making some provision in a regular and orderly fashion for funding the accrued past benefits. This is a problem which, of course, has occurred repeatedly in private industry over the course of the last 15 years in particular, and in each case provision has been made for funding past service benefits over a period of years. In that respect a public employer would be in no different situation than a private employer. The only constitutional requirement would be the current funding of current service benefits.

MR. SHACKLETON: If they did not properly take care of the past service then, where would your contractual obligation come out?

MR. VAN DUSEN: An employee who continued in the service of the public employer in reliance upon the benefits which the plan says he would receive would have the contractual right to receive those benefits, and would have the entire assets of the employer at his disposal from which to realize those benefits.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPHEN: Mr. Chairman and members of the committee, maybe we can reduce this to ordinary layman's language quickly and attempt to enlighten ourselves on the discussion. To begin with, I think we ought to recognize that "accrued benefits" means also years of prior service before some unit of government—county, township, school district, what have you—wishes to create and bring into being a pension plan for the employees. Pension plans get into trouble when the local unit, through the legislative body which provides the money, does not provide sufficient money to cover past services. In other words, you have a person who has been on your payroll for 20 years. You are putting in a pension plan, and you want to go back 20 years to take care of that person. Now, actuarially, the state plan and other plans of like kind have all been figured out as to what per cent of the total payroll it is going to cost to take care of that prior service. And that is a funded plan, spread over—in the main—40 years. Our county, in adopting a pension plan, did just that.

Where the pension plan gets into trouble is when they have a locally administered plan and the legislative body says, well, we won't pay this today, we will pay it next week, or next month, and then eventually it isn't paid, and then you are in trouble. Whereas under the state operated plan which is in force in Michigan and available to all units, the state says you must pay it when due to the local unit, to the legislative body, because you contracted to do this. And then everybody is covered fully. In answer to Mr. Shackleton's question, I think we can quickly say this: that if the plan as adopted would start from scratch today and did not take in any prior service, that's one way. But when you go back to the service of the valued employee who has been with you 20 years, or 25—and there are those people in government—then of course you take care of them, and that is done on what is called an actuarially sound basis as arrived at by actuaries who know their figures. I think that clears us up.

CHAIRMAN MARTIN: Dr. Anspach.

MR. ANSPACH: Mr. Chairman and members of the committee, most of my questions have been answered. I had some reservations to Committee Proposal 40, but those reservations have been resolved. I think it is a good proposal, and deserves our support.

CHAIRMAN MARTIN: Mr. Gover.

MR. GOVER: Mr. Chairman and members of the committee, I would like some member of the committee to answer a question I have on the last line there, and see if I'm understanding it correctly. Could this conceivably hurt cities, and so forth, who have been borrowing from such funds?

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and Mr. Gover, it is designed to prevent cities from in the future using the funds which are put into a pension fund to take care of current service benefits for any other purpose. If a city has become addicted to this practice, I would think the discontinuance of the habit might be a difficult experience for the city, at least briefly. It shouldn't hurt, however, too much. (laughter)

MR. GOVER: Just what do you mean by not hurting too much?

MR. VAN DUSEN: I think I can give a clearer answer to Mr. Gover's question than I did. This is designed to see that money that is put into a pension fund to service currently accruing benefits is used for no other purpose. Any city that has been putting it in with one hand and taking it out with the other has got to stop. And if that hurts, why, it hurts.

CHAIRMAN MARTIN: The question is on the committee proposal. Are there any amendments to the body of the proposal?

SECRETARY CHASE: Mr. Brake offers the following committee amendment—

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: Mr. Van Dusen, this would not prevent the pension fund, however—the moneys actually in the pension fund—from investing in the city's own special assessment, revenue or general obligation bonds; am I correct?

MR. VAN DUSEN: Mr. Chairman and Mr. Hanna, I think you are quite correct, yes. And Mr. Shackleton had previously made that observation to me across the aisle. It just means that they couldn't take it out and use it for current expenses.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: In taking a final look at this, we came to the conclusion that the word "such" in line 9 might be confusing. It is not necessary. We mean "all benefits," and need no qualifying word between. My amendment simply takes that word out.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following amendment:

1. Amend page 1, line 9, after "All" by striking out "such"; so the language will read, "All benefits arising on account of service. . . ."

CHAIRMAN MARTIN: The question is on the committee amendment. All those in favor will say aye. Those opposed will say no.

The amendment is adopted. Are there any further amendments to the committee proposal?

SECRETARY CHASE: There are none, Mr. Chairman.

CHAIRMAN MARTIN: If not, it will pass.

Committee Proposal 40, as amended, is passed.

SECRETARY CHASE: Item 25 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 38**, A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution.

Following is Committee Proposal 38 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. All taxes imposed directly or indirectly upon gasoline and like fuels sold or used to propel motor vehicles upon the highways of this state, and on all motor vehicles registered in this state, shall, after the payment of the necessary expenses of collection thereof, be used exclusively for highway purposes, AS DEFINED BY LAW, including the payment of public debts incurred therefor, and shall not be diverted nor appropriated to any other purpose: Provided, The legislature may provide by law a method of licensing, registering, and transferring motor vehicles and their certificates of title, and licensing and regulating motor vehicle dealers and operators; and may

Explanation—Matter within [] is stricken, matter in capitals is new.

prescribe charges sufficient to pay for the enforcement thereof. The provisions of this section shall not apply to the general sales tax, the use tax, the fees and taxes collected under the auto theft and operators' and chauffeurs' license laws which are used for regulatory purposes; the application fees and mileage fees appropriated to the Michigan public utilities commission by [act 254 of 1933] LAW; the franchise or privilege fees payable generally by corporations organized for profit; nor to ad valorem taxes payable generally by manufacturers, refiners, importers, storage companies, and wholesale distributors on gasoline and like fuels held in stock or bond, and by manufacturers and dealers on motor vehicles in stock or bond.

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 38:

The committee has made but 2 changes in the language of the present section 22. Following the words "highway purposes" the committee has added the words "as defined by law," thus giving to the legislature the power to define and limit the meaning of the term "highway purposes". It has also stricken the words "act 254 of 1933" and substituted the word "law".

The committee recognizes that the retention in the constitution of this or any other earmarking is controversial but because of the fact that this is a use tax it is much less controversial than is, for instance, the earmarking of sales tax. It is the feeling of the committee that there is no possibility of taking the earmarking of the gasoline and weight taxes out of the constitution by this convention and most of the members of the committee are in agreement with the idea that this earmarking should be retained.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman and ladies and gentlemen of the committee, we come now to a slightly controversial item, the matter of constitutional earmarking of state collected money. I think that before we get into this specific earmarking for highway purposes, perhaps a little background in this whole matter of earmarking of state funds will be very much in order.

We found in another meeting of some of the delegates in this convention awhile ago that with some of us our philosophies and our votes do not lead in exactly the same direction. I am led to make some remarks particularly because of things that have been said for years, but more particularly in connection with the campaign for calling this convention. Some of the organizations working for the calling of the convention said and more generally inferred that the state financial difficulty was largely due to the earmarking of funds. Newspaper editors are constantly making that inference.

The inference is not correct. I don't want anyone to jump out of his chair before I get through with this next statement, because I'm not going to be as political as you may think when I start. There has to be a cause for such a financial period as we got into in 1959, and it's a very proper thing to try to decide what that cause was, and to remedy it. But the cause for that trouble did not occur just in 1959. It was a buildup through a period of years. And the cause was just this: the inability of the governor and the legislature to agree upon a fiscal program. Now, some of us will blame one; some will blame the other. Whom you blame is your business. Whom I blame I think is my business. And I'm not arguing that here now at all. But it was the inability of those 2 bodies, both having authority, to agree and to work together that caused that financial crisis in 1959, and it was not the earmarking of funds.

I don't want to stop there with that generality. I want to analyze this picture just a little bit. I think we will be better prepared to act correctly on these 3 items that are just ahead of us if we have a little of the background involved. Let's take first these funds, the road funds. There never was a time, from the time that this earmarking was put on, until 1959, when there was any danger whatsoever of using any of those funds for anything except road purposes. An attempt was made 2 or 3 times to broaden the interpretation of what high-

MR. KING: Specifically, yes.

PRESIDENT NISBET: The question Mr. King asks is for us to go back to the consideration of the report of the committee of the whole on Committee Proposal 26 for the purpose of having a record vote. Is there objection?

Hearing no objection, those in favor of agreeing to the committee of the whole's recommendation on Committee Proposal 26 please vote aye—Father Dade.

MR. DADE: Mr. President, could I very graciously tell my colleagues that this has to do with civil rights.

PRESIDENT NISBET: Those in favor of concurring in the recommendation of the committee of the whole on Committee Proposal 26 will vote aye. Those opposed, vote nay.

SECRETARY CHASE: Please, all vote before we lock the machine. Has everyone voted? The machine is now locked, and the vote will be recorded.

The roll was called and the delegates voted as follows:

Yeas—126

Allen	Gadola	Norris
Andrus, Miss	Garvin	Page
Anspach	Goebel	Plank
Austin	Gover	Powell
Baginski	Greene	Pollock
Balcer	Gust	Prettle
Barthwell	Habermehl	Pugsley
Batchelor	Hanna, W. F.	Radka
Beaman	Haskill	Rajkovich
Bentley	Hatch	Richards, J. B.
Binkowski	Hatcher, Mrs.	Richards, L. W.
Blandford	Hodges	Romney
Bledsoe	Hood	Rood
Bonisteel	Howes	Rush
Boothby	Hoxie	Seyferth
Brake	Hubbs	Shackleton
Buback	Hutchinson	Shaffer
Conklin, Mrs.	Iverson	Shanahan
Cudlip	Judd, Mrs.	Sharpe
Cushman, Mrs.	Karn	Sleder
Dade	Kelsey	Snyder
Danhof	King	Spitler
Davis	Knirk, B.	Stafseth
Dehnke	Koeze, Mrs.	Staiger
Dell	Krolkowski	Stamm
DeVries	Kuhn	Sterrett
Donnelly, Miss	Leibrand	Stevens
Doty, Dean	Leppien	Stopczynski
Doty, Donald	Lesinski	Suzore
Douglas	Lundgren	Tubbs
Downs	Madar	Turner
Durst	Mahinske	Tweedie
Elliott, A. G.	Marshall	Upton
Elliott, Mrs. Daisy	Martin	Van Dusen
Erickson	McAllister	Walker
Everett	McCauley	Wanger
Farnsworth	McGowan, Miss	White
Faxon	McLogan	Wilkowski
Figy	Millard	Wood
Finch	Murphy	Woolfenden
Follo	Nisbet	Young
Ford	Nord	Youngblood

Nays—0

On the question of concurring in the recommendation of the committee of the whole with regard to Committee Proposal 26, the yeas are 126 and the nays are none.

PRESIDENT NISBET: It is concurred in and Committee Proposal 26 is referred to the committee on style and drafting. (applause)

For Committee Proposal 26 as referred to the committee on style and drafting, see above, page 739.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration Committee Proposal 40, A proposal with reference to public retirement systems. It reports this proposal back to the convention with one minor amendment:

1. Amend page 1, line 9, after "All" by striking out "such".

It is the recommendation that the amendment be agreed to and the proposal as thus amended do pass.

PRESIDENT NISBET: The question is on agreeing to the amendment. Those in favor say aye. Opposed, no.

The amendment is agreed to.

Committee Proposal 40, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 40 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof, which shall not be diminished or impaired thereby.

All benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be usable for financing unfunded accrued liabilities.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration: **Exclusion Report 2009**, A report recommending that article V, section 10 of the present constitution be excluded from the new constitution; **Exclusion Report 2010**, A report recommending the exclusion of article V, section 11; **Exclusion Report 2011**, A report recommending the exclusion of article V, section 32; **Exclusion Report 2012**, A report recommending the exclusion of article V, section 35; **Exclusion Report 2013**, A report recommending the exclusion of article VII, section 3; **Exclusion Report 2014**, A report recommending the exclusion of article VII, section 18; and **Exclusion Report 2015**, A report recommending the exclusion of article VII, section 22. The committee reports these exclusion reports back to the convention with the recommendation that they be adopted.

PRESIDENT NISBET: The question is on the approval of the exclusion reports. Those in favor say aye. Opposed, no.

Exclusion Reports 2009, 2010, 2011, 2012, 2013, 2014 and 2015 are adopted and are referred to the committee on style and drafting.

For Exclusion Report 2009 as referred to the committee on style and drafting, see above, page 761.

For Exclusion Report 2010 as referred to the committee on style and drafting, see above, page 761.

For Exclusion Report 2011 as referred to the committee on style and drafting, see above, page 762.

For Exclusion Report 2012 as referred to the committee on style and drafting, see above, page 762.

For Exclusion Report 2013 as referred to the committee on style and drafting, see above, page 763.

For Exclusion Report 2014 as referred to the committee on style and drafting, see above, page 763.

For Exclusion Report 2015 as referred to the committee on style and drafting, see above, page 764.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 38**, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: I wish to rise to a point of order, Mr. President. A moment ago this convention witnessed one of the delegates rising and asking for a unanimous vote on a certain proposal. No explanation was given, except that they would be referred, and on second reading they would again be brought back and at that time a recorded vote could be had. Then, another delegate raises the same question, there is a conference had, the ruling is then reversed, and the delegate who arose the second time—not a member of the committee who considered this proposal and helped bring it through this convention—then is recorded as having made the request.

It seems to me, in fairness to the entire picture, that the

Cudlip	Jones	Snyder
Cushman, Mrs.	Judd, Mrs.	Spitler
Danhof	Karn	Stafseth
Dehnke	Kelsey	Staiger
Dell	King	Stamm
DeVries	Kirk, S.	Sterrett
Doty, Dean	Knirk, B.	Stevens
Doty, Donald	Koeze, Mrs.	Stopczynski
Douglas	Krolkowski	Thomson
Downs	Kuhn	Turner
Durst	Leibrand	Tweedie
Elliott, A. G.	Leppien	Upton
Elliott, Mrs. Daisy	Liberato	Van Dusen
Erickson	Madar	Wanger
Everett	Mahinske	White
Farnsworth	McAllister	Wilkowski
Figy	McGowan, Miss	Wood
Finch	McLogan	Woolfenden
Follo	Millard	Yeager
Gadola	Mosier	Youngblood
Garvin		

Nays — 1

Young

SECRETARY CHASE: On the passage of Committee Proposal 37, the yeas are 115; the nays 1.

PRESIDENT NISBET: Committee Proposal 37 is passed and referred to the committee on style and drafting.

For Committee Proposal 37 as rereferred to the committee on style and drafting, see above, page 2658.

The secretary will read the next proposal.

SECRETARY CHASE: Item 7 on the calendar, **Committee Proposal 40**, A proposal with reference to public retirement systems. Amends article X by adding a section.

Following is Committee Proposal 40 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 778.):

Sec. a. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof[,] which shall not be diminished or impaired thereby.

[All] FINANCIAL benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be usable for financing unfunded accrued liabilities.

PRESIDENT NISBET: The Chair will recognize Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this is a new section for the constitution, and one that very greatly strengthens the public employee retirement systems on both the state and local levels. It does 2 things: in the first paragraph, it provides that the relationship between the employing unit and the employee shall be a contractual relationship so that the municipality may not change the relationship at its will. The benefits that have accrued up to a given time are contractual and must be carried out by the municipality or by the state. The second paragraph provides that each year the system shall pay in enough money to fund the liability arising in that year. It does not require that the system catch up with all of its past liability, which would be an impossibility in connection with some of the state systems, but it does require that they shall not go any further behind.

PRESIDENT NISBET: Will the delegates please clear the board. The question is on Committee Proposal 40. Those in favor of Committee Proposal 40 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 117

Andrus, Miss	Goebel	Murphy
Anspach	Gover	Nisbet
Austin	Gust	Perrass
Baginski	Habermehl	Plank
Balcer	Hanna, W. F.	Powell

Barthwell	Hannah, J. A.	Prettie
Batchelor	Hart, Miss	Pugsley
Beaman	Haskill	Radka
Bentley	Hatch	Rajkovich
Binkowski	Hatcher, Mrs.	Richards, J. B.
Blandford	Heideman	Rood
Bledsoe	Higgs	Sablich
Bonisteel	Hodges	Seyferth
Boothby	Hood	Shackleton
Bradley	Howes	Shaffer
Brake	Hoxie	Shanahan
Brown, G. E.	Hubbs	Sharpe
Buback	Hutchinson	Sleder
Conklin, Mrs.	Iverson	Snyder
Cudlip	Jones	Spitler
Cushman, Mrs.	Judd, Mrs.	Stafseth
Danhof	Karn	Staiger
Dehnke	Kelsey	Stamm
Dell	King	Sterrett
DeVries	Kirk, S.	Stevens
Doty, Dean	Knirk, B.	Stopczynski
Doty, Donald	Koeze, Mrs.	Thomson
Douglas	Krolkowski	Turner
Downs	Kuhn	Tweedie
Durst	Leibrand	Upton
Elliott, A. G.	Leppien	Van Dusen
Elliott, Mrs. Daisy	Lesinski	Wanger
Erickson	Liberato	White
Everett	Madar	Wilkowski
Farnsworth	Mahinske	Wood
Figy	McAllister	Woolfenden
Finch	McGowan, Miss	Yeager
Follo	McLogan	Young
Gadola	Millard	Youngblood

Nays — 1

Allen

SECRETARY CHASE: On the passage of Committee Proposal 40, the yeas are 117; the nays 1.

PRESIDENT NISBET: Committee Proposal 40 is passed and referred to the committee on style and drafting.

For Committee Proposal 40 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 8 on the calendar, **Committee Proposal 49**, A proposal with reference to the borrowing of money by public corporations and bodies. Amends article VIII by adding a section.

Following is Committee Proposal 49 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 852.):

Sec. a. Public [corporations and public] bodies CORPORATE shall have power to borrow money and to issue their securities evidencing debt[,] subject to [constitutional and statutory limitations] THIS CONSTITUTION AND LAW.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this section in its present form takes the place of part of section 10, section 20, and section 24 in article VIII of the 1908 constitution.

PRESIDENT NISBET: Will the delegates please clear the board. The question is on Committee Proposal 49. Those in favor of the proposal will vote aye. Those opposed will vote nay. The question is on Committee Proposal 49. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 110

Allen	Follo	Millard
Andrus, Miss	Gadola	Murphy
Anspach	Goebel	Nisbet

Explanation—Matter within [] is stricken, matter in capitals is new.